

COMMISSION OF INQUIRY INTO THE
USE OF DRUGS AND BANNED PRACTICES
INTENDED TO INCREASE ATHLETIC PERFORMANCE

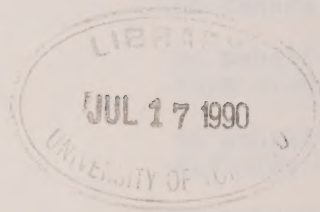
B E F O R E:

THE HONOURABLE MR. JUSTICE CHARLES LEONARD DUBIN

HEARING HELD AT 1235 BAY STREET,
2nd FLOOR, TORONTO, ONTARIO,
ON TUESDAY, MAY 30, 1989

VOLUME 54

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C O U N S E L:

5	R. ARMSTRONG, Q.C. Ms. K. CHOWN	on behalf of the Commission
	R. BOURQUE	on behalf of the Canadian Track and Field Association
	E. SOJONKY J. DePENCIER	on behalf of the Government of Canada
10	J. PORTER R. STEINECKE	on behalf of the College of Physicians and Surgeons
	T. BARBER	on behalf of the Sport Medicine Council of Canada
	R. McCREATH D. MANN	on behalf of the Canadian Olympic Association
	A. PRATT	on behalf of Charles Francis
15	E. FUTERMAN L. LIPKUS	on behalf of Ben Johnson
	D. SOOKRAM L. LEVINE	on behalf of Dr. M. G. Astaphan

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--- Upon commencing at 10:00 am

G. M. ASTAPHAN, (recalled).

5

THE COMMISSIONER: Good morning Dr.
Astaphan, Mr. Porter

THE WITNESS: Good morning.

10 --- Cross-Examination by Mr. Porter, (continued)

MR. PORTER: Good morning Dr. Astaphan?

A. Good morning sir.

15 Q. Dr. Astaphan we left yesterday, I think
it would be fair that I ask you again, in respect to the
East German athlete, why are you so relectant to name him?

MR. SOOKRAM: Mr. Commissioner, sir, as
regards that last question from Mr. Porter, I wonder if I
may prevail upon you to reserve on that. I have had
20 some discussions with my client, they weren't complete.
Perhaps after the recess we can put the same question back
to him.

THE COMMISSIONER: All right. Can you
defer that for a few moments and go on with the rest of
25 your cross examination so Mr. Sookram can consult with

Dr. Astaphan. Thank you sir.

MR. PORTER: Yes.

Q. Now, you indicated on Friday Dr.

Astaphan that you felt quite badly signing a letter which
5 falsely said you were complying with the IAFF rules. You
didn't read it at the time, to be fair to you, but once
you became aware that you were making a statement in that
letter that was not true, you indicated that you would not
have signed it if you had read it, is that correct?

10 A. I didn't read the letter. You are
referring to the one in August.

Q. Exhibit 134?

A. Yes.

15 Q. But I think you said you felt badly
because you wouldn't have signed it if you had known that
it contained that misrepresentation?

A. Not to Mr. Earl, no.

20 Q. And so it is your position that you
wish to be very careful that you do not sign things that
are not true?

A. No, I am referring to that document Mr.
Porter.

Q. All right. But the document with Mr.
Earl, Dr. Astaphan.

25 THE COMMISSIONER: He said he wouldn't, he

related it given this information to Mr. Earl for some reason.

MR. PORTER:

5 Q. You mean you didn't wish to mislead Mr. Earl?

A. No.

Q. So it was only Mr. Earl that you were concerned about?

10 A. No, to my knowledge at that time Mr. Earl was the only person who had absolutely no knowledge of what was going on.

Q. And so you felt badly that a letter that you had signed would mislead Mr. Earl?

15 A. Yes.

Q. Well, why didn't you ever just straighten him out and go and tell him?

A. Well, I saw the letter, the Friday after I came up here, 2 weeks ago that was the first time I read it. I have since discussed it with him and apologized to him too.

20 Q. Well, as I understand it, Dr. Astaphan, yesterday when we had our discussions about Dr. Stanish?

A. Yes.

25 Q. You indicated there was some question

as to whether Dr. Stanish had asked you for a complete report as to all the medications that Ben Johnson had received. Is that true. Have I phrased it properly?

5 A. If it is true that that is what you asked me or if it is true that that is what Dr. Stanish asked me?

Q. Did you say yesterday you weren't really of the view that Dr. Stanish asked you for a complete report of all the medications that Johnson had received?

10

A. No, Dr. Stanish never asked me for any report. Charlie Francis asked me to make out a report.

Q. Well, I am going to show you something entitled To Whom It May Concern?

15 A. This wasn't made out to Dr. Stanish. This letter was written when they could not find, or had no idea of how to get a hold of the physician to accompany Ben to the testing, the first testing and it was written by me in conjunction with Charlie Francis and given to

20 Waldemar Matuszewski to take to the track in case he saw Dr. Luba who was supposed to go in with Ben. They had no forms or anything to fill out.

Q. Okay,. So it is written by you, it is a medical representation as to what Ben Johnson received?

25 A. Yes, it is.

Q. And on the second page you set out in considerable detail 11 items, and then a following 4.

A. Yes, that's correct.

Q. Correct?

5 A. That's correct.

Q. And so that really represents a complete summary of what you say Johnson has?

A. As far as they wanted him to know.

10 Q. But did you give this to Charlie Francis?

A. No, this was given to Waldemar Matuszewski.

15 Q. Waldemar. But that was for the purpose of making a representation surely to the IOC that Ben Johnson had never been on any steroids?

A. That's right.

20 Q. Because at the very first sentence this statement constitutes a full and complete disclosure of all medicines administered by me to Mr. Ben Johnson. So there is no qualification there, is there?

A. No, I wrote that down and that is not the way I word my sentences. So you can see it was under instruction.

Q. But you signed it at the bottom?

25 A. Yes I did.

Q. On the second page --

THE COMMISSIONER: Is this your writing there or did somebody else write this for you?

THE WITNESS: No, it is my writing, sir,

THE COMMISSIONER: Fine.

MR. PORTER:

Q. The whole thing?

A. Yes.

A. The second page, you are the only person on earth that could have composed that second page.

THE COMMISSIONER: It is on the second page.

MR. PORTER: I'm sorry, Mr. Commissioner, I am going to the second page now just for a minute. I will come back to the first page.

THE COMMISSIONER: I just asked a question whether this was his writing on the first page and it was.

MR. PORTER:

Q. And it is your writing on the second page?

A. It is, yes.

Q. Now, you are the only person on earth that could have composed that second page?

A. Composed?

Q. Well, it is composing, isn't it?

A. What do you mean by compose.

Q. Well, you wrote it and you thought out
yourself of every word on that page. Nobody dictated that
to you?

A. No, those are most of the things that he
was on.

Q. Most of the things?

A. Yes.

Q. And so this report is clearly and
unequivocally a lie?

A. Well, the report doesn't include
everything. If the IOC expected every athlete on anabolic
steroids or performance enhancing drugs to fill out forms
properly, it would negate even the slightest need of
testing them.

Q. Please, Dr. Astaphan, just, isn't this
report a lie?

THE COMMISSIONER: Well, Doctor, it says:
"This statement constitutes a full and
complete disclosure of all medication
administered by me to Mr. Johnson since I
became his personal physician in November
'83"

THE WITNESS: Yes, that's true.

THE COMMISSIONER: So, it is a representation as to the full scope of the medication and you are frank to say it omitted any reference to steroids?

THE WITNESS: Yes.

5 THE COMMISSIONER: Otherwise, as you explained yesterday, there would be no need for the tests.

THE WITNESS: Yes, sir.

MR. PORTER:

10 Q. Now, are you frank to say that it is a lie?

A. It is a false statement.

MR. PORTER: I would file that as the next exhibit please.

15 THE REGISTRAR: 190, Mr. Commissioner.

THE COMMISSIONER: Thank you.

--- EXHIBIT NO. 190: Dr. Astaphan's memo re medication administered to Ben Johnson.

20 MR. PORTER:

Q. I guess you now view this as an instance of your ingenuity developing first and your sole after, as you told Charlie Francis. That's the progress of science as far beyond your ethical behaviour. Is that

25

fair?

A. It was.

Q. When did you last read the Hippocratic Oath?

5 A. Many years ago.

Q. What part of the Hippocratic Oath when you testified on your first day at page X38636, what part of the Hippocratic Oath encourages you to involve yourself in a detailed fashion with cheating in sport?

10 A. The line 'to the best of my ability and judgment'. My judgment was considering looking after the athletes.

Q. Why don't we look at it.

15 THE COMMISSIONER: Well, it doesn't say anything about athletes or performance enhancing drugs in the Hippocratic Oath.

MR. PORTER: Mr. Commissioner, when Dr. Astaphan commenced he wrapped himself in the --

20 THE COMMISSIONER: I am not objecting to giving the Doctor the Hippocratic Oath.

MR. PORTER: I am not sure it is not going to say anything.

THE COMMISSIONER: That's right. I have read the Hippocratic Oath too.

25

MR. PORTER:

Q. All right. There are a number of variations of it, but I suggest to you, Dr. Astaphan, to change, to shorten time. There is nothing in that oath which covers you assisting and encouraging and involving yourself in a detailed fashion with cheating in sport?

A. The second to last paragraph states 'according to my ability and judgment I would keep them from harm and injustice'.

Q. 'I will apply dietitic measures for the benefit of the sick according to my ability and judgment'.

Who was sick?

A. I wanted them not to get sick. It was preventitive medicine.

Q. 'I will keep them from harm and injustice'?

A. They would harm themselves if they won't look after them.

Q. I may as well file that Hippocratic Oath.

THE COMMISSIONER: Well, it is almost -- we will take judicial notice of that.

MR. PORTER: All right, you will take judicial notice of it.

Q. Dr. Astaphan, your medical files did

not include the roids list. The roids list which you talked about were not placed in each individual patients medical files when it was put back in the filing cabinet?

A. No, they weren't.

5 Q. And, so, no file in fact had this roids list in it?

A. Not unless it was left in there.

Q. And the roids list, as you call it, which, as we remember, is short for steroids?

10 A. That's right.

Q. The slang?

A. Yes.

Q. Was stolen with the testosterone kept in your desk in early April of 1986?

15 A. Well, it wasn't in the desk when I was called into the office.

Q. But it was stolen?

A. Well, it wasn't in the drawer.

20 Q. But it was in the drawer before your office was broken into?

A. Yes. When I left to go away on holidays everything was in the office.

25 Q. Now, these roids lists, you refer to pink slips. What kind of -- do I understand it was on pink paper or have I misunderstood something. Tell me

what it was on.

THE COMMISSIONER: I don't recall him saying that?

5 THE WITNESS: I didn't say anything about pink paper.

MR. PORTER: All right, I stand corrected.

THE COMMISSIONER: What type of paper were you using, medical sheet paper?

10 THE WITNESS: Yes, the regular patient file paper, sir,

MR. PORTER:

Q. And what did you put on it?

A. What they got and when they got it.

15 Q. And so you had on the top a name?

A. Yes.

Q. And dates?

A. On the top, no, the dates of it were on the sides.

20 Q. Yes. And so you would put Estragol or Furazabol?

A. Yes, Estragol.

25 Q. And then everything else. So, every time somebody came in to receive a shot you marked it in that separate slip?

A. Yes.

Q. And you put the slip back in your desk drawer?

5 A. Yes, when we were finished and the secretary took the chart, I would keep the slip.

Q. And you were quite religious about doing that?

A. Yes I was.

10 Q. And that roids list was very important to you, wasn't it, because it kept a record of what you were giving those athletes so you could monitor their program.

15 A. Yes, and it was also important to me that the secretary didn't see or become aware of what they wanted, it wasn't any of her business.

Q. So, to you those roids slips were very important?

A. Well they are like every other patient's chart, they are important.

20 Q. And so when those disappeared you were quite upset?

A. I was upset when everything in my office was ransacked and disappeared, not just those pieces paper.

25 Q. But you were upset about those?

A. I was upset about everything, Mr. Porter.

Q. But you were upset about losing the roids slips?

5 A. I was upset about every chart that got interferred with.

Q. Now, what I don't understand is, if it is your position that the College of Physicians and Surgeons of Ontario have made it all legal, why wouldn't
10 you put it in the file. Why wouldn't you put reference to anabolic steroids in the regular file?

A. I just told you 2 sentences previously that I didn't think it was any of the secretary's business and if you had a medical practice you would know that when
15 the patients come in, the secretary opens the chart and inserts the OHIP file in it.

Q. So it was all merely to not let the secretary know?

A. For one, yes. People had access to the front desk at the office and I didn't want them going and
20 looking at anybody's chart.

Q. Was this the only separate filing system you had?

A. No, I had one for physiotherapy too.

25 Q. But were they stolen?

A. Most of them; or damaged. A lot of charts were damaged.

Q. Yes, you have made that clear that on the floor they were damaged?

5 A. Not just on the floor; I had them even in the cabinets they were damaged. The whole office was ransacked.

Q. Now, you had said you would have to discuss with your athletic patients the possibility of
10 side effects of kidney and liver problems. You have given evidence to that effect?

A. That you would have to discuss with them all possible side effects, not just one or two.

Q. And what you said is that most of the
15 athletes had copies of the CPS?

A. A lot of them have copies.

Q. Well, who besides Issajenko?

A. Well, they all seemed to have access to them because they would quote me where they read it and
20 what they read it in and the CPS said this and the CPS said that and the CPS says everything.

Q. But did you see anybody with one besides Issajenko?

A. I never seen even Issajenko's, no.

25 Q. So, this was just as a result of your

patients discussing it with you?

A. No, when they had that type of information you would ask them were they would get it from and they would tell you, they read it in the CPS.

5 Q. When you said that documentation coming from the manufacturers show the side effects as being tremendously exaggerated, have you any of those documents now in your possession?

10 A. No, I don't walk around with documents like that. But I will refer you to the American Journal of Sports medicine, July 1984, Haupt and Rovere and go and review anabolic steroids in the literature. They are supposed to be the two big men in sports medicine in North America.

15 Q. So we have agreed that you would have to discuss with all your athletic patients the possibility of side effects or dangers to the liver and kidney, wouldn't you?

A. Amongst^e other things, yes.

20 Q. Now, at the University of Toronto where you graduated, I would assume you would have studied Harrisons Principles of Internal Medicine. Do you remember that.

A. Yes, very well.

25 Q. And I guess you will never forget that

text. Goodman and Gillman's Pharmacological Basis of
Thereaputics?

A. That's right.

5 Q. Without me crawling through them in
detail, is it fair to summarize them, that those texts
deal in detail with the possible side effects of androgens
on both women and men. They warn of the dangers to the
liver, and they also warn of the altering of cholesterol,
the possibility of liver cancer, and the possibility of
10 increasing the chance of advancing an arterial sclerotic
condition. That's what they talk about

A. Some.

Q. I beg your pardon?

A. Some do.

15 Q. But those 2 texts. Do you want me to
go through them?

A. No, no, no. I said some anabolics.

Q. Yes?

A. Not all.

20 Q. But those are -- and nowhere in those 2
texts, to be fair, is it envisioned whatsoever that a
healthy athlete would be receiving anabolic steroids,
because you can take a long time reading it and you will
never see it ever suggested in those texts which you will
25 agree are basic texts.

THE COMMISSIONER: I didn't think that any text would indicate any healthy athlete would get any drugs.

MR. PORTER: Exactly. But I am trying to
5 get the answer from the witness?

THE WITNESS: Mr. Porter, the answer to that is that whether or not the textbook says to, the athletes do take it and it is the responsibility of physicians to see to the best of their ability that they
10 don't get themselves in any harm. They all take it. Whether the textbook tells them to or not. The athletes don't read those medical texts.

Q. But you have suggested Dr. Astaphan that you pride yourself on being quite well educated now
15 on anabolic steroids. You weren't in the beginning but since then it is fair to say you consider yourself to know a great deal about it now?

A. I said I know a lot more now than I did then. I am not an authority on it but I know a lot more
20 than I did.

Q. But you made a point of indicating that you read the annals of the New York Academy of Science?

A. Yes.

Q. The American Journal of Sports
25 Medicine?

A. Yes.

Q. The Clinical Endocrinology from Oxford?

A. Yes.

Q. Of Cancer Chemotherapy Reports?

5

A. Yes.

Q. And I think you said 'and the list goes on'?

A. Yes, sir.

10

Q. And the list goes on, doesn't it? You have read more than that?

A. Yes.

Q. So you pride yourself on the fact that it's important to you to be well read in this field?

A. As well read as possible.

15

Q. And so you didn't artificially ignore things that were there, you would have looked for things?

A. Yes, I looked for things, sure.

20

Q. Now I am going to put to you a number of monographs and so my question will be, would you accept that you should have read this and if you did read it, would it have helped you.

25

MR. LEVINE: Sir, with respect, I would remind my learned friend that this is not a disciplinary proceeding before the College of Physicians and I wonder what --

THE COMMISSIONER: I think it's helpful in a general way of the role of Physicians in distributing and administering drugs.

MR. LEVINE: Well, the doctor has already
5 said what he has read and if there are other materials --

THE COMMISSIONER: I am not sure I like the way phrase it. You might ask him did he read these things, Mr. Porter. He said, would you would be surprised with his questioning, have you got the phrase there?

MR. PORTER: Would you accept it, would it
10 have been helpful if you had read it. Would you accept you should have read this?

15

20

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THE COMMISSIONER: I don't know.

MR. PORTER: This man, with great respect,
this doctor is not an expert, and all I'm going to do is
just show a summary. I'm not going to take--may I just
5 finish?

THE COMMISSIONER: You have a series of
articles there and you'll ask the doctor whether he has
read them? Is that what you are going to ask?

MR. PORTER: Then I'm going to say where is
10 this in the bottom--

THE COMMISSIONER: If he hasn't read them,
how would he know if they've helped him or not?

MR. PORTER: Because the conclusions are
thin. The results of this study suggest that the
15 sustained use of testosterone and anabolic steroids have a
marked unfavourable effect on the pattern of HDL
cholesterol in the serum of male power athletes.

THE COMMISSIONER: Put that question to
him. Ask him whether he agrees to that. Have you got the
20 article there? What's the name of the article?

MR. PORTER: The first article is "Reduced
High Density Lipo Protein Cholesterol in Power Athletes".

THE COMMISSIONER: By whom and when?

MR. PORTER: Mlnaleun and Brathla, and it is
25 the International Journal of Sports Medicine 1984.

THE COMMISSIONER: Have you read that one,
Doctor?

THE WITNESS: No, sir.

THE COMMISSIONER: Well, put the
5 proposition to him, ask him whether he was aware of it and
whether he should have been aware of it.

MR. PORTER:

Q. The proposition is it was concluded
10 that the use of androgenic steroids combined with strength
training decreases serum HDL cholesterol and thus may
cause a higher risk of coronary heart disease. Now, did
you read that article?

A. Mr. Porter, there are numerous
15 articles. I can go and select articles in my favour.

Q. Dr. Astaphan, I am asking if you read
the article.

A. I've read articles saying that and I've
read articles saying otherwise, and unfortunately,
20 athletes get a hold of all these articles and they choose
to go with the ones that favour them and not with the ones
that do not favour them.

THE COMMISSIONER: The ones that show less
side-effects?

THE WITNESS: Absolutely, sir.

THE COMMISSIONER: They didn't need that when you were around because you were there to give them this advice.

5 THE WITNESS: But they got a hold of all of them. As a matter of fact, the Sports Medicine -- the American Academy of Sports Medicine copy that I got from July '84 was given to me by one of the athletes who was in school in the States.

10 MR. PORTER:

Q. But wouldn't it have been better if you had read them all? I've got four articles, and I'm quite sure that you most probably haven't read them. Do you want me to go through them, but wouldn't it have been better if you did?

15

A. Mr. Porter, I have a list of about 80 articles that I read. The gentleman yesterday had a list of 300 and he asked me if I had read them. I have to spend some time looking after the patient, not all the time reading.

20

Q. Well, let's just see whether you have read them.

MR. LEVINE: With respect, sir, whether he has read them or whether he hasn't, he can ask him if he is--

25

THE COMMISSIONER: If he has read them, then he was equipped at least with the warnings, I guess, in these articles. He can answer these questions with no difficulty.

5 THE WITNESS: Mr. Commissioner, just a second. I don't think it's fair to have Mr. Porter select four documents that favour his argument.

THE COMMISSIONER: Well you're going to supply us with yours.

10 THE WITNESS: I'll only give you one if you can mark because this is the one that the athletes always went by in '84 presented to me by an athlete from Canada.

THE COMMISSIONER: Have you read this one, Mr. Porter?

15 MR. PORTER: Let's have a look. I might have.

THE COMMISSIONER: Let's have the one the doctor says--

20 THE WITNESS: This is what the athletes, as of '84, were using as a Bible, including Daniel Duchine, who wrote the underground steroid handbook which is used as the biblical text for athletes.

THE COMMISSIONER: The underground handbook--

25 THE WITNESS: The Underground Steroid

Handbook by Daniel Duchine.

THE COMMISSIONER: Why is it called the underground handbook?

5 THE WITNESS: That's the name he chose. I didn't write the book, sir.

THE COMMISSIONER: It doesn't purport to be an authoritative text if it's called the underground handbook--

10 THE WITNESS: I'm not saying it's an authoritative text.

THE COMMISSIONER: Is this what you used yesterday, a recipe for steroids?

15 THE WITNESS: No, this one isn't really a recipe for steroids. This book is quite a bit more detailed, and he also lists all the side-effects and drug tests and lab tests that he recommends.

20 MR. LEVINE: Just to make it clear, sir, that's not the same article that was given to my friend. My friend is looking at something else from the doctor. That's not the same book he is talking about.

THE COMMISSIONER: No, I know, the underground is not the same book. I know that, but that's the article you did read, Doctor, is it?

THE WITNESS: That's one of them, yes.

25

MR. PORTER:

Q. Well, I read that too. Of course. But isn't it fair--well, it certainly mentions an awful lot of side-effects in that article that you just pointed to.

5 A. But you didn't go and read the conclusion.

Q. But it does discuss a great number of side-effects. Isn't it fair to say to you, Dr. Astaphan, what you have done is you've found throughout the medical literature a portion that supports what you think and you've just run with it?

10

A. No, that's not correct at all.

Q. So you basically, I will suggest to you, you didn't warn athletes about potential liver damage problems or potential chance of cancer or potential arteriosclerosis because you just didn't agree with the literature?

15

A. You're absolutely wrong, Mr. Porter.

Q. Well, just as a specific, when you talked with Ben Johnson, yesterday you very specifically when asked by Mr. Sookram what you told Ben Johnson, you--basically Ben Johnson wanted to know whether he would ran faster. You talked about acne, you said you better have a look at your stool and your urine, but there is no discussion there about Ben. I've got to tell you,

20

25

somewhere down the road there may be an increased chance of arteriosclerosis; there may be an increased chance of you getting cancer in the liver or kidney.

5 A. They were all advice regarding all these side-effects and their response was they don't care, just give them the stuff.

 THE COMMISSIONER: I thought you said though that you indicated that with your program, that they would be quite safe in taking the steroids.

10 THE WITNESS: One of the indications of Furazabol is for elevated cholestrol and--

 THE COMMISSIONER: Going back to general information, I think you did say that under your care, they could feel quite safe in following your program.

15 THE WITNESS: I said under my care, I thought it would be a little bit safer with somebody monitoring them than having them going on their own because, Mr. Dubin, they would take it whether I told them yes or no.

20 THE COMMISSIONER: I know. You've told us that, Doctor, but you had a special position with these people, did you not? You're the doctor.

 THE WITNESS: But I will reiterate what Charlie said in his testimony. They told me if I didn't
25 do it, they would go elsewhere.

THE COMMISSIONER: I know. We'll come back to that later.

MR. PORTER:

5 Q. Excuse me, sir. It was your duty as a physician to warn them of any possible side-effects.

A. And I did.

Q. Possible. And so did you say to Charlie--to Ben Johnson you may--there's a chance if you
10 take this stanozolol--did you use the word stanozolol?

A. When he took the tablets, yes, Winstrol.

Q. You said if you take this Winstrol, you might be exposing yourself to problems in your liver and
15 it could be cancerous? Did you say that?

A. I told him all the side-effects of the medication, all of the side-effects.

Q. But please, did you say that side-effect?

20 A. I said it could affect your liver, give you liver disease and there is one reported case of an athlete dying from liver cancer, and I told him all of this.

Q. You're now suggesting that you spelled
25 it out that way?

A. It's in the literature that they brought to me and we discussed it.

Q. And what about--

5 A. Because they asked. They said how did this drug go under one reported death of liver cancer, and I said there is a remote possibility because one person died from it, one athlete out of 19 people studied.

Q. And the increased risk of arteriosclerosis as a result of taking stanozolol?

10 A. Yes, sir, and that is why there were--

THE COMMISSIONER: And Dianabol too. Would Dianabol have the same--

THE WITNESS: Yes,--

THE COMMISSIONER: And Anavar too, Anavar?

15 THE WITNESS: Anavar, yeah. I never used Anavar. I tried to stop Angella--

MR. PORTER:

20 Q. But you tried to buy Anavar from Brisbois. I got two bottles from somebody to take--not to take orally. He wanted to take it back with him to Italy.

Q. Wait a minute. Why did you try to buy two bottles from Brisbois?

25 A. Because Waldemar had a friend in Toronto in Ottawa who was here on a conference who asked

him to get a hold of some Anavar and prostigmine for him, and I told him sure I would get two bottles for him and he took them back to Rome.

Q. So that's the only reason?

5 A. Yes, sir.

THE COMMISSIONER: I think Waldemar has given evidence to that effect too, Mr. Porter.

MR. PORTER:

10 Q. Well, yesterday, let's have a look. My friend Mr. Sookram was asking you some questions at 9195. Mr. Sookram's asking you questions, Dr. Astaphan, and you're getting to the point where you're dealing with Ben Johnson. You're talking about the Winstrol tablets,
15 right?

A. Yes.

Q. "What particularly did you say to Mr. Johnson at that time? Answer, that we are going to put him on the Winstrol tablets
20 which is an anabolic steroid and the effects and the side-effects and that he would notice a gradual increase in the strength and not speed initially, and that he should look out for any type of muscle cramping or
25 any change in his acne and to report to me,"

correct?

A. Yes, that's right. Why didn't you underline effects and side-effects?

Q. Just let me finish and we'll underline it together.

A. All right, fine.

Q. "What specific side-effects did you ask him to look for? Initially the muscle cramping, because that was the first side effect somebody as muscular as him would get and any facial changes. And the long-term effects which were to, you know, keep an eye on the urine and the stool. After five days he had to stop so he didn't need anymore, anymore following up on it or counselling."

Now that's the discussion you have with him concerning Winstrol, and there is nothing in that discussion about any long-term possible risks as a result of taking anabolic steroids that other people think may happen?

A. Mr. Porter, you're insinuating that I don't think it would happen and I don't appreciate that. I asked you why didn't you underline the effects and side-effects. You underline what suits your argument, not what I said.

THE COMMISSIONER: Come on. We're getting

into a debate. Go on. I think you have been covering this ground for quite a bit. It's getting a bit repetitive if I may say so with respect.

5 MR. PORTER:

Q. Doesn't it seem strange to you that your patient Bethune is quite clear about no discussion at all about the pink pills he said he was getting?

A. Nothing that Tim Bethune says sounds
10 strange to me.

Q. So all the stuff about there is clear evidence about having a look at the bottle and it going into the waste paper basket and seeing "veterinary use only", that's just an invention?

A. Mr. Porter, I said nothing that Tim
15 Bethune says sounds strange to me.

Q. So that is an invention?

A. (No audible response.)

Q. Did you take the position that you
20 didn't tell Bethune that anabolic steroids from safe?

A. Had I told Bethune that?

Q. Yes.

A. No, I didn't tell Bethune that. He was
advised regarding the effects and side-effects, and that
25 taken in recommended dosages, the side-effects would be

less than if he had gone and taken it the way he was going to.

Q. Well, Mike Sokolowski flatly said that you never discussed the risks or side-effects of anabolic
5 steroids with him. Does that seem strange to you?

A. Yes.

Q. So he again, is he just inventing this?

A. Mike Sokolowski was a member of the group and we discussed it not only in our office, but at
10 the track and the apartment where he stayed, because I think Waldemar lived with him for about six months, and on many occasions.

Q. And if Dajia, does it seem strange to you that Dajia takes the position there was no warning and
15 no discussion?

A. Yes, very strange, particularly with Pete.

Q. And McKnight, that there was never any discussion with you about side-effects?

A. Yes, sir.

Q. That's strange again?

A. Yes. Whoever says that is strange.

Q. Did you charge Ben Johnson for every shot of anabolic steroids that he received in your office?

A. No.

Q. I mean--sorry, did you charge OHIP for every--

THE COMMISSIONER: I don't think we are going to go into the OHIP billing.

5 MR. PORTER: I'm merely asking whether he charged.

A. No.

THE COMMISSIONER: The answer is no?

THE WITNESS: No, sir.

10

MR. PORTER:

Q. I'm just going to show you in the transcript with Mr. Pavoni, I wish to ask you a question because I have a--I've listened to the tape and I'm merely going to put--

15

THE COMMISSIONER: You can read it to him, can you?

MR. PORTER: Yes, I can.

THE COMMISSIONER: Why don't you do that.

20

MR. PORTER:

Q. Page 8938. This is a tape Dr. Astaphan, of your conversation with Pavoni somewhere around the end of January 1988, January 27th, and it refers each time to Astaphan and then Pavoni so I'll read.

25

"Dr. Astaphan: Since Charlie gave you that steroid shot, he hasn't given you anymore.

Pavoni: No, he didn't give me a steroid shot, he gave me only inosine.

5

Dr. Astaphan: Oh.

Pavoni: He gave me only inosine. Instead of 1, 1.5. That's all.

Dr. Astaphan: M'hmm. Just the inosine he didn't?

10

Pavoni: I'll check. I know the difference of the bottle.

Dr. Astaphan: He didn't give you any steroids?

Pavoni: No, no, no. But, no, no, no, no."

15

Four no's.

"He didn't give you any steroids?

Pavoni: No, no, no, but the white stuff, is it steroid"--

20

And I think, listening to the tape slowed down, his question is, Is it steroid or sterol. Now, the reporter listening here has taken it down as Estragol, but listening to the tape, my ears tell me the question by Pavoni was "Is it steroid or sterol. Then your answer on this transcript is, "'ROL, yes". Pavoni's question is, and I think listening to it it's sterol, and Astaphan's

25

answer is "Yeah".

Now is it possible that my ears are correct
and that Pavoni said sterol to you?

A. Can I explain this to--

5

THE COMMISSIONER: What is sterol?

MR. PORTER:

Q. No, sterol is a vegetable--

10

A. No, just let me explain it, please. I
can do my own explaining, Mr. Porter.

Q. Yes.

15

A. As Charlie says in the tape that Pavoni
didn't want him to know that he was on it. He said it
quite clear on this tape. Pavoni had brought along with
him something called anabolica vister from Italy which he
was taking. It's a steroid, an anabolic steroid made in
Italy, and he had problems saying Estragol, and in order
to differentiate the Estragol from the anabolica vister he
was taking and not mixing them up, he kept referring to it
as strol, strol.

20

THE COMMISSIONER: Instead of Estragol?

25

THE WITNESS: Yes, sir, because he did not
want to be taking too much of the anabolica vister, which
is some Italian anabolic steroid and he had something
called I think megastrivit or mega something that you mix.

Another steroid.

THE COMMISSIONER: So when he referred to Estragol, how would he describe it? As Sterol instead of Estragol?

5 THE WITNESS: Strol. Strol he would say. If you read Mr. Pavoni's statement to the press this morning, he now says he thought he--

THE COMMISSIONER: I don't want to go into that. Let's stick to what we hear here.

10 MR. SOOKRAM: More than that, sir, I wonder if it's fair to stop where Mr. Porter stopped because three lines below that, Dr. Astaphan goes on to say, "And of the Estragol, the white steroid stuff, because, you know, you could see Ben's muscle on the race tightening
15 up." I wonder why it was convenient to stop at that point and not go on right through.

MR. PORTER: That was about Ben Johnson.

Q. My question then, reading that--I've
20 gone through the questions with you, it you very well--

THE COMMISSIONER: I heard the word Winstrol. What's the word you were using?

MR. PORTER: Sterol.

THE WITNESS: Strol he would say.

25 MR. PORTER: Sterol is a cholesterol which

may be part of a steroid, but it does not have the androgenic, the sexual--

THE COMMISSIONER: Are you talking about a sterol or--

5 THE WITNESS: He was referring to the Estragol. That's how he differentiated between his steroid that he brought with him and the one which he got from us.

THE COMMISSIONER: Thank you.

10

MR. PORTER:

Q. Because you will agree that if he said sterol, that's a different thing than a steroid?

15 A. He knew exactly what sterol was because I had obtained a bottle of oral sterol compound for him. He knew the difference.

20 Q. So I won't pursue that, if that is your explanation. You've stressed that part of your taking care of Angella Issajenko was that you would monitor her progress and see that she took the drugs prescribed for her; is that correct?

A. To the best of my ability.

25 Q. Yes. Because it was important, as you said to my friend Mr. Armstrong, that you prevented a multiplicity of drugs from a multiplicity of sources?

A. Yes.

Q. And this is what you called
poly-pharmacy, and I guess what Dr. DePasquale calls
poly-pharmacy, the multiplicity of drugs from a
multiplicity of sources, but I've got--

A. I won't speak for Dr. DePasquale. He
is capable of speaking for himself.

Q. In your tape with Ms. Issajenko around
January the 27th which you introduced, you're taping her
at page 8950 to 8951.

"Dr. Astaphan: But when you haven't been
taking any of the Estragol, the steroid
stuff recently, have you?

Issajenko: No, no.

Dr. Astaphan: When did you get it last?

Issajenko: Oh, Jesus, I started about 34
days ago."

This is January 27th, 34 days ago before January 27th.

"Dr. Astaphan: 34?

Issajenko: Yes.

Dr. Astaphan: And how much was Charlie
giving you, what doseage?

Issajenko: Well, I was just doing a quarter
cc.

Dr. Astaphan: A quarter cc?

Issajenko: Yes, but what I did was I took--for three weeks I took 10 milligrams of Dianabol.

Dr. Astaphan: M'hmm, by mouth?

5 Issajenko: Yes.

Dr. Astaphan: Yes, but he was giving you inosine. Charlie was giving you the inosine and a quarter cc of the steroid?

Issajenko: Yes."

10 Now, as I understood the program for Issajenko, she should not have been taking Dianabol during--

MR. SOOKRAM: Is Mr. Porter seriously suggesting that Dr. Astaphan from St. Kitts or even in his visit to Toronto can control a patient? Is he suggesting
15 that this is what is expected of a doctor?

THE COMMISSIONER: The point he is making is that the doctor was advised at this moment that she was stacking the Dianabol or the Estragol, and I guess you are going to ask him what he did about that.

20 MR. PORTER:
Q. Well, that was not what you had envisaged with Issajenko at that time.

THE COMMISSIONER: I think he said earlier
25 that she was taking more than he had prescribed for her.

THE WITNESS: As a matter of fact, Mr. Commissioner, it was read into the records by Ms. Issajenko's attorney yesterday where she said she would take what she wanted, even contrary to what I advised her.

5

MR. PORTER:

Q. Well then it's fair to say you didn't effectively monitor her, did you?

10

A. Mr. Porter, could I monitor Angella from 2,300 miles away?

Q. But you started them on the programs. You left the Estragol with Charlie Francis. You just leave a ticking time bomb and you go away to St. Kitts.

15

A. No, I didn't leave a ticking time bomb and go away to St. Kitts. As I said yesterday and Friday and on Wednesday, when I left here, I asked which ones wanted me to refer them to physicians and which ones would go to their own physicians. Angella asked me to refer her to one which I did. The others said they would find their own physicians.

20

Q. And did you advise those physicians the program of steroids that she was on?

A. Did she advise them?

Q. Did you?

25

A. No, because I didn't know which one she

was going to choose. I gave her three names.

Q. Did you put down on a list so that doctor would know--

A. I gave her the list.

5 Q. Did you prepare a list--

A. I gave her a list of what she was--

Q. --to be shown to a doctor?

THE COMMISSIONER: Let him answer the question, Mr. Porter. You're interrupting. You asked the
10 question. Let him answer.

THE WITNESS: I gave her a list of what she was on because about every month or two she would revise her list of what she was taking.

THE COMMISSIONER: I think we've seen that
15 in the exhibit.

MR. PORTER: No, that was in August. That was the protocol.

THE COMMISSIONER: No, Dr. Finn. We have the exhibit she gave to Dr. Finn, I think, setting out in
20 detail what drugs she's on I think. That's one of the exhibits that went in the other day. I'm sorry, it wasn't an exhibit. It was read into the record in part, and that indicates the series of drugs that she told Dr. Finn she was on.

25

MR. PORTER:

Q. When you had the concern about monitoring, does it surprise you that Peter Dajia said that there were no laboratory testing--

5

THE COMMISSIONER: Mr. Porter, this is question of surprise has cropped up only in these proceedings. Suppose the doctor says yes, I'm surprised, or no, he's not surprised? Where does that get us? The question seems to be quite unhelpful.

10

MR. PORTER:

Q. Do you accept the fact that Dajia had no laboratory tests done on him?

15

A. Pete Dajia came into Toronto probably for three or four days at a time from the States where he was in college or university, and he told me that he was being and would be followed up there by some doctor at the university. There was no sense of me doing tests here on Peter on a Saturday or Sunday when it was convenient to him because nobody was in our lab on Saturday and Sunday and that's when he usually called me and came to see me.

20

Q. So you accept that there weren't drug tests, any--

25

A. No, I didn't do them but the patient assured me he would get them done in the States where he

was from some doctor in the university. I must take the patient's word too. I can't baby-sit him.

Q. You have made it very clear that when you left Toronto in September of 1986 and you returned in August of 1988, that you made at least ten visits at your own expense to come back to Toronto to observe any side-effects which the athletes might have?

A. To observe them clinically is my exact wording and in the field. They all had gone to other doctors at that time, and it was that doctor's responsibility for an ongoing follow-up. I wasn't treating them on a permanent basis at that time. I just paid my visits and looked at them on the track and clinically and told them what my opinion was.

Q. Just so we have the record straight, Dr. Astaphan, at page 9101, "What was the purpose of your coming? Mainly to observe first hand the progress and whether or not there were any effects or side-effects from the program these athletes were on."

A. Yes, with respect to their running.

Q. I beg your pardon?

A. With respect to their clinical appearance to me and their running, the status of their running.

Q. I guess you didn't say that to Mr.

Sookram.

A. No. Mr. Porter, you don't really expect me to monitor a patient if I am here for 36 hours and they have doctors here that they are going to, do you?

5 Q. Dr. Astaphan, you said yesterday you were up for that purpose.

A. Yes, but not to monitor them in a laboratory and in an office. I didn't have an office or a laboratory.

10 Q. So you agree that you missed Ben Johnson's gynecomastia in October of 1987?

15

20

25

A. I didn't see Ben Johnson in October of 1987. And if you redirect, Dr. Sussman says it was gone in 2 weeks.

Q. No, that's not what the record says.
5 It was gone in 3 months?

A. Ben never complained to me about anything. As a matter of fact at that time I am not even sure if he was on anything.

Q. But you missed it?

10 A. I didn't miss it.

Q. Well, did you see it?

A. No, I didn't see it, but I didn't miss it. You only miss something that you are told about or that you are looking for. I didn't see him for a long
15 time in '87.

Q. So you had him on this program and you weren't looking for anything?

A. That's not quite true.

Q. Why not? Why isn't it quite true?

A. I am not sure that he was on the
20 program in October, '87. I would have to go over the whole meet schedule.

Q. But surely the whole point of possible side effects is what happens after the program is
25 finished. Not just looking, you can't seriously tell me

as a physician you are just looking at a patient during the time he's on the program?

5 A. Mr. Porter since you like to refer to articles, I am referring you back to the Clinical Endocrinology from Oxford which states all testosterone and androgenic and anabolic effects are completely out of the system and normalized within 14 days. Had I not seen him within 14 days of the period the affects would have gone. And that is by 3 top endocrinologists out of the University of Oxford.

10 Q. So, you have taken your spin on that and that's that.

A. No, but you took your spin --

15 THE COMMISSIONER: Excuse me please. Mr. Porter, excuse me. We have gone through this avenue of Dr. Astaphan's opinion on these matters and your submissions. I think you might get on to something else.

MR. PORTER:

20 Q. You ordered from E. L. Stickley and Company, which is exhibit 155 - I wonder if you could get them for me, I would be obliged if you would - from January of 1984 to October, 1987 125 vials of aqueous testosterone?

25 A. Yes.

Q. I have added them up, looking at the list, and if my addition is right, that's what it appears that you have ordered. Would that be correct?

A. If the list says so, I don't know.

5

Q. Well, I have the list.

Now, you have indicated that at least Sokolowski had one vial of testosterone?

A. Yes, I said a 30 cc vial. If you look at the things, Stickley only makes 10 cc's, I think.

10

Q. Correct, you did. Now, so, Sokolowski didn't get one of those aqueous testosterone?

A. He got a 30 cc bottle.

Q. Yes. So, he didn't get one of the ones that Stickley provided?

15

A. No.

Q. And you have indicated that you supervised body builders, weightlifters and power lifters, and that you monitored them?

A. That's right.

20

Q. Are you listening now; and that you monitored them?

A. I am listening to you.

Q. And that you monitored them?

A. Yes.

25

Q. Yes?

A. And they came back, yes.

Q. Yes. Is this where some of that testosterone went?

5 A. No. Testosterone on the open market is cheaper than buying testosterone from Stickley or from Taro Drugs which I suppose will be your next exhibit.

Q. No, it won't be. I am just going to deal with that one. What happened to those?

10 A. I used them in the office here and I took some to St. Kitts and used them there when I went down. You don't understand the culture of the West Indies where I practise in the islands, Mr. Porter.

Q. No, but I am trying to find out --

15 THE COMMISSIONER: What did you say, you used some here and you took some down with you to St. Kitts?

20 THE WITNESS: Yes because when I went down on holidays I would fill in for doctors there and I got some for some of the doctors there. Because testosterone is used very frequently there as a libido.

THE COMMISSIONER: A libido on the island.

THE WITNESS: Yes, that is part of the culture.

25 MR. PORTER:

Q. There must be an awful lot of libido building required down in the islands. 125 vials?

A. In that period. Mr. Porter you are making it out as though this is something abnormal. Why
5 don't you get the list from Stickley and see how many more physicians in Ontario have ordered more testosterone than I have in that period.

Q. Well, the Commissioner is not going to let me follow the challenge, but ---

10 So, all that is for libido.

A. Well, he probably should.

THE COMMISSIONER: Well, Mr. Porter, he said he used some here. Did you use any for the the athletes in Canada at all?

15 A. Very little, sir, very little, because it costs me too much this way.

THE COMMISSIONER: What could it be used for, for athletic performances. Is it similar? Is it an enhancement performance of some nature?

20 THE WITNESS: Yes, it is a testosterone. Some of these, some of it is aqueous testosterone and it is one of the things that the athletes use.

THE COMMISSIONER: Well, Mrs. Issajenko used to take aqueous testosterone, didn't she?

25 THE WITNESS: She had a bottle of aqueous

testosterone that I think was a 30 cc vial.

THE COMMISSIONER: Did that come from you?

THE WITNESS: No, no. I sent one, I think Sokolowski got one.

5 THE COMMISSIONER: But some athletes were on this particular drug were they not?

THE WITNESS: Yes, but he got one.

THE COMMISSIONER: Was Mrs. Issajenko the only one, I thought others were using aqueous testosterone. Didn't you send some down to Guadeloupe with Ben Johnson.

A. One bottle and a bottle to Tallahassee.

THE COMMISSIONER: To Ben Johnson.

THE WITNESS: Yes, but that wasn't it.

15 That was a 30 cc bottle.

THE COMMISSIONER: But it was aqueous testosterone?

THE WITNESS: Yes.

THE COMMISSIONER: And one was sent to --

20 THE WITNESS: One to Tallahassee and one to Guadeloupe.

THE COMMISSIONER: But that was used for this Mazda Group though.

THE WITNESS: Yes, sir.

25 THE COMMISSIONER: So, they were using it.

So, some of it was used for that reason?

THE WITNESS: Very little, very little of this. You can get a 30 cc bottle for about the same as you get --

5 THE COMMISSIONER: No, but I think you told us one time you sent some drugs down to Tallahassee with Mr. Johnson?

THE WITNESS: That was a 30 cc bottle of aqueous testosterone.

10 THE COMMISSIONER: Where would that come from, not from Stickley?

THE WITNESS: No, that was a bottle made in the States but purchased here for the same price as the 10 cc bottle from Stickley.

15 THE COMMISSIONER: I see. That would be on the black market, it is three times as cheap?

THE WITNESS: Sometimes even less than that. It depends on the supply that they have, sir.

20 THE COMMISSIONER: Same manufactured drug? Is it the same? These are all patented drugs?

THE WITNESS: Yes.

THE COMMISSIONER: So, it would be the same manufacturer?

25 THE WITNESS: No, I don't know who makes the aqueous. I think they make their own. I don't know.

THE COMMISSIONER: I see. All right, go ahead, Mr. Porter.

MR. PORTER:

5

Q. You supervised bodybuilders, weightlifters and power lifters?

A. Yes.

Q. What did you give them?

A. What did I give them? I advised them.

10

Q. I mean, if it wasn't that testosterone, and I think you have indicated you wouldn't give power lifters in Canada the Estragol, as you call it, because Lordy knows how much they would take. What did you give the power lifters?

15

A. I advised the power lifters what to take. They had their own supplies more than I could get. As a matter of fact at times I got stuff from them.

Q. So, you are not really the captain of that ship, you are just trying to hold on to the wheel?

20

A. Yes, it is a sinking Titanic and I am just going to make it sink not so quickly.

Q. Are you the last one off?

A. Well, it appears so now.

THE COMMISSIONER: Well, let's get back on land, Mr. Porter.

25

MR. PORTER:

Q. But you wouldn't give the bodybuilders,
the weightlifters and the power lifters the Estragol would
5 you because it was too valuable?

A. That's right.

Q. Why didn't you keep one of the 3 vials?

A. Why didn't I?

Q. Yes. You gave them to 3 powerlifters
10 in St. Kitts?

A. No, one.

Q. One?

A. One guy used it on for the Caribbean
championships.

Q. One guy took all 3 vials?

A. Yes, that's almost three years.

Q. So you gave this --

A. Mr. Porter, just as a matter of
interest, Mr. Commissioner, what I do in St. Kitts is my
business and not really any of the colleges or the
20 Commission's business. It didn't involve a Canadian
athlete or anything to do with Canada, so I think this guy
hasn't given me permission to discuss his business.

Q. It is not appropriate that you and I
25 argue about that here and now.

If I suggest to you that Mr. Mass will say that Furazabol would have been detected on the computer and appeared differently than stanozolol, what would you say to that?

5 A. Mr. Mass, I don't know who Mr. Mass is.

THE COMMISSIONER: He wouldn't know that.

THE WITNESS: I don't know who Mr. Mass is.

THE COMMISSIONER: He is the analyst. I think you should leave that to our witnesses.

10

MR. PORTER:

Q. At 8695 -- I only asked the question, Mr. Commissioner, because he took the position 2 days ago that such was not the case.

15 THE COMMISSIONER: No, he didn't I don't think. I don't think he knows. You don't know that the metabolites of Furazabol are different than the metabolites of stanozolol?

20 THE WITNESS: Well, my knowledge is limited to what I was told in that they are very similar metabolites.

THE COMMISSIONER: I can tell you that they are different, Doctor?

THE WITNESS: Well, I don't know.

25 MR. PORTER: I only went into it because he

indicated that Estragol --

THE COMMISSIONER: He doesn't know, he hasn't seen the analysis of it.

MR. PORTER: Wasn't on the computer and
5 couldn't have been picked up. That's fine.

Q. All right. At page 8695 in Volume 50.

THE COMMISSIONER: What point is this now?

MR. PORTER: He is discussing about why
10 anabolic steroids were given because of elevated enzymes
because of muscle damage.

THE COMMISSIONER: All right.

MR. PORTER: And I merely wish to question
him as to the appropriateness of anabolic steroids for
that.

15 Q. You said, sir, and this is a discussion
with Mr. Armstrong:

"Anabolic steroids are used not for what the
general assumption is but they are used to
make people bigger and stronger. They are
20 used so that you don't lose muscle function
and muscle cells as quickly?

Q. Well, protein depletion is some kind of
medical condition that the drug would be used
for, is that not so?

25 A. Yes, one of the anabolic affects.

Q. And you surely weren't providing this drug to your athletes for that particular condition were you?

5 A. No, not for protein depletion, providing it to them to prevent cell breakdown during training?

Q. And if you take a blood sample from an athlete after training and after participating in a race for up to ten days, you get elevated enzymes that come from muscle cell damage. You get muscle cell damage for up to ten days and then you get enzymes elevated in the blood. That shows muscle cell damage and death and the basis for using anabolic steroids is to greatly decrease the recovery period and the cell breakdown."

10

15

I suggest to you, sir, that there is no clear evidence that the enzyme creatine phospho kinesis, or CPK would be what you would be talking about, in a trained athlete goes up dramatically from exercise?

20

A. Well then we have totally different information.

Q. I suggest to you that CPK, the enzyme that you are referring to, is an enzyme that escapes when

25

cells are damaged?

A. That's right, that's what I said. You just read it.

5 Q. And I suggest there is no study which would satisfy a scientist which indicates that anabolic steroids will alleviate or alter CPK?

A. I said they alter the cell breakdown in the cellular muscle damage.

Q. And that's what I said?

10 A. I didn't say it would have any effect on altering CPK. I never did. You are inferring what I never said or meant.

Q. But the CPK is only present if there is muscle damage?

15 A. Yes, and there is muscle damage when they exercise. I refer you back to the same article here.

Q. All right.

20 A. So, your sources can argue with these people, I am not an expert on it. But right in here it tells you that during strenuous exercise the athletes muscles undergo catabolic effects from the endogenous cortisol production and the only and sole way of counteracting that is by the giving of anabolic steroids from Haupt, Rovere.

25 Q. Excuse me. And I suggest to you that

there is no study of any scientific value that supports that position?

A. Well then these two big men in the States are useless then.

5 Q. When somebody broke into your medical office in April of 1986, I think you have indicated that you were very concerned, correct?

A. Sure I was.

10 Q. And you really wanted the culprits to be tracked down?

A. Well, I was hoping something would be done.

15 Q. You made it a point, as you have told Mr. Sookram that you told the police of all the things you thought were missing.

A. Mr. Porter, I don't think I said that. I said we told them what we could but there were bags of stuff left unpacked there for the insurance company to come and see, which was here even after I left here.

20 Q. Well, Mr. Sookram at 9126 says:

"Q. And the matter was reported to the police, was it not?

A. The police called me.

Q. The police called you?

25 A. Yes.

Q. And told you. And you made out a list of the things that you thought were missing?

A. Yes."

5 A. That I thought; from what was obvious to us. I don't know how many times I am going to have to go over this, you know.

THE COMMISSIONER: Have you got a question Mr. Porter? Have you got a question because he has discussed this?

10 MR. PORTER: Yes, I want to show you the police report.

THE COMMISSIONER: Just ask him what is it.

MR. PORTER:

15 Q. I am suggesting to you, in the police report there is no mention whatsoever of the roids file?

A. We didn't know what files were missing.

Q. But the roids were in your desk with your pad and with your prescription slips?

20 A. Mr. Porter, if we can just get back from the theatrics for a second. The office was in a filthy mess. The insurance company had to bring in people over and over to clean it, to re-do charts and files, how could I tell what was missing and what wasn't missing
25 unless it was very obvious.

Q. But you knew from your desk?

A. I knew that the files were not in the drawer, but not that they were outside the property and that's what I stated. Up until now I don't know what was
5 done with the 2 huge garage sacks filled with files and other equipment. As a matter of fact if you look in there you will see that the damage to my \$5,000 laser machine wasn't even put down by the police.

Q. But you have identified that you missed
10 4 pads of doctor prescription pads?

A. Yes, because those are extremely important. I don't know who got a hold of them.

Q. And a name of the script and there is nowhere in there where you mention the roids file being
15 stolen?

A. I told you already Mr. Porter I think.

Q. But you indicated very clearly when you first gave evidence about it that in that drawer there was where you kept the roids file and you knew they were
20 stolen.

THE COMMISSIONER: I think you have made your point, Mr. Porter.

THE WITNESS: If it was that important to me then I would have reported it to them, wouldn't I? I
25 reported the missing drugs and the missing prescription

slips and those were important.

Q. But you never said the roids file wasn't important.

MR. SOOKRAM: So he didn't say it. So, we
5 are going over and over and over the same thing. The point is made.

THE COMMISSIONER: The point is made.

MR. PORTER: Well then I only have the last
10 thing which was who was the East German athlete and so we might recess now.

THE COMMISSIONER: We are going to take a break and we are going to go into that. We will have
break

15 --- SHORT RECESS.

20

25

---Commission resumed.

THE COMMISSIONER: Mr. Porter, are you pursuing the question?

MR. PORTER: Yes, I am.

5 THE COMMISSIONER: And you have been asked who the East German athlete was, Dr. Astaphan, and who was it?

THE WITNESS: At this point in time I don't want to say who it was, sir.

10 THE COMMISSIONER: And why not?

THE WITNESS: My attorneys have explained to me the fact that not saying it would affect my credibility, and I have tried to tell the truth right through the whole thing, but where the security of my wife and children comes in, I have to draw the line. My
15 credibility takes second place to my family's security and safety.

THE COMMISSIONER: As a matter of security for yourself and family? Is that what you're saying?

20 THE WITNESS: Not myself. For my wife and children who live in Toronto.

THE COMMISSIONER: Would be effected by you disclosing the name of the East German?

THE WITNESS: I have been so warned.

25 THE COMMISSIONER: All right, Mr. Porter.

Your counsel has advised you that it's a matter which I have to weigh in the side of your credibility. You understand that, Doctor?

THE WITNESS: Yes, sir.

5 THE COMMISSIONER: All right. Leave it alone now, Mr. Porter, please.

MR. PORTER:

10 Q. And the same in respect to the Canadian--

THE COMMISSIONER: What about the Canadian athlete? Same answer?

THE WITNESS: Yes, sir. That's the way the warning emanated from.

15 MR. PORTER: Those are my questions.

THE COMMISSIONER: Thank you. Mr. Bourque?

MR. BOURQUE: I want to thank you for giving me the indulgence yesterday. I think you'll find I'll be much shorter today as a result.

20 THE COMMISSIONER: Well, we didn't get that out of Mr. Porter.

EXAMINATION BY MR. BOURQUE:

25 Q. Dr. Astaphan, my name is Bourque and I represent the CTFA, and I just have a few questions in clarification of some of the evidence you gave last

Friday. Now I understand you have been living and practicing medicine in St. Kitts from late 1986 to the present; is that correct?

A. Yes, from September the 1st.

5

Q. And in the two-year period from the fall of 1986 to the fall of 1988, how often did you travel to Toronto or elsewhere to be with Charlie and the group?

A. To Toronto, at least ten times.

Elsewhere, I think three or four times. I'm not sure.

10

Q. And in the same period from the fall of 1986 to the fall of 1988, can you estimate for us how often you were in contact with Mr. Francis by telephone from St. Kitts?

A. Quite often. I can't give you an exact

15

figure, but very often.

Q. I understand that. Can you give us some kind of approximation? For example, was it as frequently as weekly?

A. On occasion, and then sometimes it

20

would be monthly or every six weeks. It depends on whether they were travelling or not.

Q. And during this two-year period from the fall of 1986 to the fall of 1988, did you discuss with Mr. Francis measures or strategems by which dope testing programs could be defeated generally?

25

A. Yes, sir.

Q. And how often did you have such discussions with Mr. Francis?

5 A. I think every time the suggestion of random testing was brought up.

Q. By random testing, can I ask you to explain to me exactly what you mean? Would that include in-competition testing?

A. Yes, in and out.

10 Q. In and out.

A. Random, according to my understanding of it to mean unannounced testing or unprepared testing, whichever way.

THE COMMISSIONER: No notice?

15 THE WITNESS: No notice.

MR. BOURQUE:

20 Q. Just so we're entirely clear, that could be in the context of a competition, a meet, or out of competition?

A. Yes, because the understanding we had was that the random testing would take place at training or wherever, that they would just notify you and then they would come--I'm sorry, they wouldn't notify you, they would just show up wherever they thought they should and

25

collect a specimen.

Q. All right. And would it be fair then to say that you discussed this topic with Mr. Francis at length and in detail?

5 A. Yes.

Q. Now, in your examination by Mr. McMurtry on Friday, you touched on the subject of random testing, and you said that at one point Charlie and the group panicked. You used the word panicked, and then you said just a little later on in your evidence, "And then in May last year, you know, we were a little bit worried about random testing." Do you recall giving that evidence?

10

A. Yes, I think that was the same time that I spoke about being in a panic.

15

Q. That's right. And were you aware when you gave this evidence that the CTFA out-of-competition testing program was, in fact, originally intended to begin in April 1988 about the very same time you suggest the group became concerned about it?

20

A. No, I didn't know what it was. I know the implementation was pending, but I didn't know when.

Q. Now, at that time, that is May 1988 when you say they began to--they became worried about it, did Charlie and the group begin to discuss training

25

outside of Canada in order to avoid the out-of-competition testing program?

A. Not with me.

Q. Did they never discuss with you
5 offshore training, including training in St. Kitts, to avoid out-of-competition testing?

A. Yes, that was discussed in '86 and possibly '87.

Q. So that had been discussed for some
10 time?

A. Yes.

THE COMMISSIONER: That would be one way of avoiding random testing, would it, by going offshore somplace?

15 THE WITNESS: Yes, but a very unnecessary and expensive way.

THE COMMISSIONER: You say it would be unnecessary?

THE WITNESS: Yes.

20 THE COMMISSIONER: If in the middle of a steroid program someone dropped in and asked for samples, it would be pretty difficult to avoid detection, wouldn't it?

25 THE WITNESS: You could change the protocol, sir. The protocol could be changed.

THE COMMISSIONER: But if you don't have advanced notice. As I understand, these cycles, apart from the one that we've heard about at the end of August, they went on I think a three or four-week cycle. Wasn't
5 that a regular cycle for a steroid program, then you're off and you go back on three or four weeks--

THE WITNESS: Usually three to four weeks. Sometimes two, sometimes six, but I don't mean the cycling, I mean the medication could have been changed.

10 THE COMMISSIONER: I'm sorry, go ahead, Mr. Bourque.

MR. BOURQUE:

Q. Thank you, sir. Was it your understanding that the CTFA out-of-competition testing
15 program that was to be implemented in '88 was only to be carried out within Canada?

A. No, my understanding as of May last year was that the program will not be implemented until March or April of '89.

20 Q. No, I didn't ask you when, I asked you where. Let me ask you again. Was it your understanding at that time in May '88 that the proposed CTFA out-of-competition testing program was only to be carried out within the boundaries of Canada?

25 A. No. We didn't discuss the boundaries

really. I didn't know what the boundaries were.

Q. All right. If that was the case,--

A. You're starting with if. I don't think I'm going to answer a hypothetical question, sir.

5 THE COMMISSIONER: Make sure it's hypothetical. Not all if's are hypothetical.

THE WITNESS: If predicates hypothesis.

THE COMMISSIONER: You've heard that discussed before, but merely a preface doesn't make it
10 hypothetical, but what's the question?

MR. BOURQUE: I'll avoid the word if.

THE COMMISSIONER: What was your understanding, Doctor, that the random testing would include an offshore training camp?

15 THE WITNESS: Mr. Dubin, in May last year we didn't have time--there wasn't that long a period to find out whether it was local or offshore because when they heard about it, a couple of phone calls were made, and the information brought back was that it was going to
20 be delayed until this year, after the Sherbrooke meet in Quebec. So I really didn't know if it was offshore or just within Canadian boundaries.

MR. BOURQUE:

25 Q. Let me ask you now, in the event that

it was to be conducted only in Canada, would offshore training camps have been a sufficient measure to defeat the program by themselves?

A. Excuse me, I didn't get that.

5 THE COMMISSIONER: Let's assume Canada in '89--

THE WITNESS: '88, sir.

THE COMMISSIONER: You say it's going to be '89 now. We're passed March of '89. I won't make anymore
10 comment, but if Canada were to do some random testing program with no notice, only in Canada, then it could be defeated by offshore training. We heard that with our weightlifters where you just go to Czechoslovakia to do your training.

15 THE WITNESS: But the program could be defeated by training right here in Canada.

MR. BOURQUE:

Q. I'm not suggesting there were not other
20 means of defeating the program, I'm just saying that if one had the time and the wherewithal to train offshore, would that have been a sufficient measure to defeat the out-of-competition testing program that was to be carried on here in Canada?

25 A. If the testing was restricted to within

Canadian boundaries?

A. Exactly.

A. Probably, yes.

Q. The if word's not so hard to deal with,
5 is it?

A. Pardon?

Q. Was the offshore training venue the
main strategy that Charlie and the group discussed with a
view to defeating the CTFA out-of-competition testing
10 program?

A. No.

Q. Now you have spoken about a report that
you and Charlie received back from somebody--

A. No, it's a report Charlie received and
15 told me. I was never in contact with anybody in the CTFA.

Q. All right, let's ask you about that
then. Can I ask you, have you ever discussed random
testing with Jean-Guy Ouellette and yourself?

A. No, I think I met Mr. Ouellette once in
20 Seoul for about two seconds.

Q. That was in October or September of
1988?

A. I think so. I think it was Mr.
Ouellette. When I did meet him, it was extremely brief.

Q. And you had never in your life talked
25

to him before that?

A. No, sir, nor after.

Q. And you testified, as we have heard,
that someone reported back to you and Mr. Francis about
5 random testing not coming in until after the 1989
Sherbrooke meet. Who reported this back to you?

A. As I told you, Mr. Francis told me.
Nobody reported it to me. Someone told Charlie and
Charlie told me.

10 Q. All right. Who told Charlie, as far as
you know?

A. I don't know, but Mr. Ouellette's name
sounds familiar. I can't say it was him.

15 THE COMMISSIONER: You can't say whether
Mr. Francis identified his source?

THE WITNESS: No, sir. He did, but I don't
remember who it was, but whoever it was, Charlie seemed
very confident that it wouldn't be implemented.

20 MR. BOURQUE:

Q. And when was this reported by Mr.
Francis to you?

A. In May before he left to go to Tokyo
with Ben.

25 Q. And you say that the report Mr. Francis

received quoted Jean-Guy Ouellette; is that correct?

A. No, I didn't.

Q. I thought you did?

THE COMMISSIONER: He didn't know who it
5 was. You just said that, Mr. Bourque?

MR. BOURQUE: I'm sorry?

THE COMMISSIONER: He said he got the
information from Mr. Francis, but he doesn't recall who
Mr. Francis identified as his source; isn't that right?

10 THE WITNESS: Yes, I said Mr. Ouellette's
name sounded familiar, but I can't say for certain that it
was him.

MR. BOURQUE:

15 Q. Well, with respect, that wasn't your
evidence on Friday.

A. It certainly was.

Q. Let me read to you from page--beginning
page 9080 of Volume 52, which is the evidence of May 26th,
20 1989, beginning at line 24. This is a question by the
Commissioner.

"I'm sorry, who said this?

THE WITNESS: This was--I don't know who
said it, but it was brought back to Charlie
25 and myself.

THE COMMISSIONER: You don't know who said it?

THE WITNESS: No, sir. The name Jean-Guy Ouellette sounds quite familiar to me, but he didn't tell me this. This is what we've--

THE COMMISSIONER: We have heard some evidence about Mr. Ouellette.

THE WITNESS: He was quoted by the person reporting it back as having said this."

I took that to mean that Mr. Ouellette was, in your evidence, quoted by the person--

THE COMMISSIONER: That's there, but the earlier question, sir, consistent with what he said just now, he wasn't sure who it was.

MR. BOURQUE:

Q. All right. Then you spoke in your evidence of -- I might as well just read you the evidence. It's brief. It's also at page 9080, begins at line 14.

"And some very rapid investigation was done about random testing. In the report that was brought back to Charlie and myself was that they were not going to random test after the Sherbrooke meet in 1989, which is

5 this year, for reasons that some senior man
 in the CTFA or one of those governing bodies
 had contacted a friend of his who had
 contacted somebody in the Ministry of Sports
 and told them that had the random testing
 taken place, that the top athletes, meaning
 Charlie's athletes, would not be able to
 compete in his"--

10 And that's the end of your statement because the
 Commissioner asked a question at that point. Do you
 remember giving that evidence?

 A. Yes.

15 Q. And can you tell me now who was the
 senior man in the CTFA that you have referred to? Did you
 know?

 A. If I knew who it was, I would have
 named him.

 Q. And you also spoke of a friend of this
 senior man. Do you know who that was?

20 A. No.

 Q. And you spoke of the friend contacting
 somebody in the Ministry of Sports. Do you know who was
 in the Ministry of Sports who was contacted?

 A. No.

25 Q. Do you know when this discussion took

place?

A. Well, it must have happened--

THE COMMISSIONER: Mr. Bourque, all he is repeating now is what somebody else told him anyway. He didn't discuss it with anybody himself.

MR. BOURQUE: All right.

THE COMMISSIONER: One has to distinguish I think some of these comments that are being made from what are facts and what are hearsay for every purpose.

MR. BOURQUE: Exactly, sir. Thank you. I have no further questions. Thank you, Dr. Astaphan.

THE COMMISSIONER: Mr. Futerman?

EXAMINATION BY MR. FUTERMAN: May we just have a moment to move ourselves over.

Q. Good afternoon, Dr. Astaphan.

A. Good afternoon, Mr. Futerman.

Q. It's your evidence that after September 1987, you noticed a change in Ben Johnson's attitude?

A. Yes, sir.

Q. And as you put it, the sharks came after him?

A. Yes.

Q. I think I believe you suggested, Doctor, that Ben became a meal ticket for many of the

other athletes including Charlie Francis and that these athletes and Mr. Francis from time to time applied pressure on Ben to show up at meets even if he didn't want to; is that fair to say?

5 THE COMMISSIONER: I don't think he said--

THE WITNESS: I didn't say Mr. Francis.

10 THE COMMISSIONER: He didn't say he was a meal ticket for Mr. Francis, he said Mr. Francis contributed money when the others didn't get enough money from the track meets.

15 MR. FUTERMAN: All right, but we're going to get into that, Mr. Commissioner. I think there is evidence also that at one time, Mr. Francis was gaining a financial benefit from Ben appearing at these meets. I think that was the evidence that Dr. Astaphan gave us the other day.

THE COMMISSIONER: We'll hear about that.

MR. FUTERMAN: I believe that evidence is already here before us.

20 THE COMMISSIONER: There has been some discussion about it, but I don't think he said it was ever implemented. We will hear about that, but the first statement you made was a little inaccurate.

25 MR. FUTERMAN: In fairness, we will come

back to that, Mr. Commissioner.

Q. Because, as you put it, Doctor, Ben increased the income of others around him by just appearing at the meet. Is that fair to say?

5 A. By the athletes.

Q. I'm sorry?

A. The income of the athletes.

Q. By the other athletes, that's correct.

10 And Doctor, you obviously agree that his decision not to go to Europe in May of 1988 was a reasonable one and you supported it; is that correct, Doctor?

A. Yes.

Q. And it didn't even enter your mind that Ben should go to Spain?

15 A. No, it didn't.

Q. And that was because of the injury that he had?

A. Yes.

20 Q. Perhaps I did not understand your evidence the other day, and you can correct me, and perhaps the Commissioner and I heard different things, but I had the impression that by 1988, that a number of people were profiting from Ben Johnson, and they included his agent, of course, Larry Heidebrecht and the Heritage
25 Group, you mentioned Waldemar, you also mentioned the

coach, Charlie Francis; is that correct?

A. Well, my information was that Charlie got a percentage.

Q. Yes, I think you mentioned something
5 like 4%.

A. I said it was either 3 or 4. I'm not sure how much it was.

Q. That would be of the income that Ben would earn that year as far as you knew?

10 A. As far as I knew.

Q. Yes, and that even though there was perhaps some reasonable explanation for the modest salary you were getting, you were earning for about four or five months 10,000 a month U.S.; is that correct?

15 A. Yes, with a total neglect of my own practice.

Q. I understand. We're not suggesting it was unreasonable, we're just asking you did you receive compensation from Ben Johnson?

20 A. For three months.

Q. And I think you said earlier he still owes you for two months.

A. Yes, sir.

Q. Yes, all right. So that by 1988, Ben
25 Johnson represented a sizeable asset and investment for

many people that we know of, and perhaps a few that we don't know of; is that correct, Doctor?

A. With the exclusion of me.

Q. I just asked you did he represent a substantial asset to a number of people?

A. Yes, to a lot of people except in me.

Q. Yes, I understand. And that through much of 1988, is it fair to say that beginning sometime in one of the meets I believe in early February, that Ben Johnson was hurting physically?

A. Yes, I think he got injured somewhere in Germany.

Q. He injured his hamstring I think in the early part of 1988.

A. Well, it was actually his plantaris which was misdiagnosed, yes.

Q. And that led to another injury when he ran again I believe it was in Zurich, or perhaps you can correct me, what city that was where he reinjured--Tokyo I guess it was. In Tokyo he reinjured--

A. He tore a hamstring in Tokyo, yes.

Q. So for much of 1988 leading up to Seoul, Ben was injured. Is that fair to say?

A. Yes.

Q. And that he obviously was not happy

about doing a lot of traveling or training in 1988 because of those injuries?

A. Well, he wasn't happy with the travelling, but he certainly wanted to get back training.

5 Q. Of course, right, but the injury itself and the demands that were being made upon him by others would cause Ben Johnson to be edgy from time to time; is that fair to say?

A. Oh, sure, yes.

10 Q. Thank you. Doctor, Mr. McMurtry, counsel for Charlie Francis, reviewed your relationship with Ben Johnson, and I think I believe you said you were as close as anyone could get; is that correct?

A. As he would allow me to get, yes.

15 Q. And in fact, Doctor, is it fair to say that you looked at him as a son and at times he looked at you as a father?

A. At times, yes.

20 Q. Yes. Is it fair to say that for most of your relationship, the years you spent together, you trusted each other completely?

A. I wouldn't say completely.

Q. You trusted each other substantially?

A. Yes.

25 Q. You've also said that Ben was very

inquisitive about the properties of anabolic steroids?

A. He was inquisitive about anything that he was taking.

Q. Yes.

5

A. Or eating.

Q. And when you talked to him about anabolic steroids, what questions did he ask you about Estragol?

10

A. He started out with, A, the effects on the strength, B, the effect on the speed, C, the effect on whether or not it would have any effect on his libido, then about what everybody was talking about steroids, about giving you liver trouble and this trouble and that.

15

Q. He would ask you about the liver problems?

A. Yes, he asked once. He asked initially.

Q. You remember him asking you specifically about the liver problems?

20

A. Yes, he said did it cause the same problems with your liver and kidney, and as a matter of fact he said heart too, as other steroids that people are telling him that they got.

25

Q. So he asked you about the liver, the kidneys and the heart?

A. Yes.

Q. Did he ask you about anything else?

A. No, just--

Q. Didn't he ask you about the acne?

5 A. No, I told him about that.

Q. Oh, you told him about that.

A. Yes, because he had quite a bit of acne
on an ongoing basis.

10 Q. And when Ben was asking you all these
questions, where was this at, by the way, in your office
or at his home?

A. Oh, in the office, the home, in the
car, at the track, on the plane.

Q. At different times?

15 A. Yes, he would keep asking about
whatever you gave him.

Q. I thought he only asked you but these
questions on one occasion.

20 A. No, the last three, the kidney, heart
and liver.

Q. He asked you how many times about that?

A. Just the first time.

Q. Just the first time, and where was he
at that time and where were you?

25 A. He was--as a matter of fact, I think he

asked me at my home.

Q. He asked you--do you remember when,
what date?

A. No.

5 Q. Of course not. Do you remember what
year?

A. Yes, it was in '85.

Q. It was in 1985?

A. Yes, after we had discussed that we had
10 obtained a new anabolic.

Q. And what did you tell him about the
possible side-effects to the liver?

A. I explained the whole thing to him. I
told him, A, it was supposed to be less androgenic.

15 Q. He understood the word androgenic?

A. No, I didn't explain it to him in that
way.

Q. Well, how did you say it to him?

A. It would be less of a male hormone
20 effect on him.

Q. And he understand what less of a male
hormone effect on him meant?

A. Yes, he knew what it was. He knew what
that meant.

25 Q. And what else?

A. B, that it would have more effect on his muscle strength and endurance, meaning anabolic.

Q. Yes?

A. And C, even though it's supposed to be much less toxic or much less dangerous, is what I told him, to his other systems in his liver, et cetera--

Q. You used the word toxic?

A. No, dangerous.

Q. Oh, dangerous. You said the word toxic.

A. I said dangerous or toxic. Not toxic to him, toxic--

Q. I understand. I want to know the words you used to Ben Johnson.

A. Okay, that it had dangers in it, built-in dangers like every other--

Q. What were the built-in dangers that you told him about?

A. That it might affect his liver.

Q. What did you tell him in what way?

A. That it would damage it.

Q. You told him that?

A. Yes, that it could. There was a chance that it could.

Q. And did you tell him under what

circumstances it could damage his liver?

A. Yes, if he took it for too long and too much, too high a dose.

Q. And did you tell him what in your
5 opinion was too long?

A. Yes, I told him the protocol we told him to take, the length of time and the shots per week is what he should stick to, and not increase it or change it.

Q. And did you tell him that seven years
10 might be too long?

A. I didn't expect him to go on it for seven years.

Q. You knew he was on it for three years when you saw him.

15 A. No, he wasn't on what I had him on.

Q. Just a minute, Doctor, in fairness. You told us, unless I heard you wrongly, that when he came to see you, he was happy to tell about all these steroids he had been taking for at least three years, and on top of
20 that, you had him on a program for five years. That amounts to almost eight years of anabolic steroids.

A. I had him on a program for four years.

Q. Well, let's call it seven years then, three and four.

25 A. I had him on a program for four years.

Q. All right, three and four years.

That's seven. Did you tell him that that was long-term use and that might affect his liver?

A. Yes.

5 Q. You did?

A. Yes, and the program he was on with me was started in I think spring of '84 and changed in late '85, and it was not a continuous program.

10 Q. So it is your evidence, Doctor, that your program of anabolic steroids would not cause him damage to his liver even though it may be used long-term?

A. That is not my evidence.

Q. What is your evidence, Doctor?

15 A. My evidence is that I told him and told them all that there was a slight chance of them getting liver damage and that it would affect the liver--it could affect the liver.

Q. It could affect the liver.

20 A. Yes, and it could affect the kidneys and the other systems.

Q. And what did you tell him about the kidneys and what way they could be affected?

25 A. It has been reported that anabolic steroids can interfere with the filtration of the kidneys or to quote what I told him, "The way the pee is

filtered."

Q. And that would be again depending on the dosage and the length of usage; is that correct, Doctor?

5 A. The length of usage meaning on a continued use, but long-term--they were not on anything for a long term at the time.

10 Q. Well, forgive me, Doctor. Are you suggesting to me because you were on a cycle program of anabolic steroids, even though it was used, the steroids were used for a period of seven or eight years, that's not long-term use?

15 A. It is long-term chronologically, but if you're on a program for three to four weeks and then you're off for three to four months, then that's a very debatable matter.

20 Q. So you don't feel that long-term use, the fact that you are on a cycle, as long as it's not a constant, continuous use constitutes long-term use even though someone may be on for seven years?

A. It is long-term, but it's not an ongoing long term.

Q. So that wouldn't concern you?

A. Sure it would.

25 Q. Well I would think so, and therefore

you would have the appropriate tests done from time to time to ensure that these athletes who had been taking anabolic steroids on and off for up to seven or eight years would be protected; is that correct, Doctor?

5

A. Well, as often as possible.

Q. Pardon?

A. As often as possible. When they would show up, yes.

10

Q. When they would show up. Okay, we will come back to that in a few moments. Let's come back to what you told Ben about the kidney.

15

20

25

Q. Did he ask you any questions?

A. About the kidney?

Q. Yes. Once you told him this?

A. He said do you mean that it would stop
5 me from peeing and I said no.

Q. From what?

THE COMMISSIONER: From urinating.

MR. FUTERMAN:

10 Q. All right, go on?

A. I said no, what happens sometimes is
that the membranes that filter it get a little injured and
it does not retain or keep in chemicals it should.

Q. You told him all this?

15 A. Yes, in those words; simple,
understanding words.

Q. Simple, understanding words?

A. Yes, not medical words.

Q. All right.

20 A. Angella I would tell her in technical
words, she would understand technical terms.

Q. But with Ben you had to keep it simple
with Ben?

A. Well, you had to keep it in language he
25 wanted to understand.

Q. Or would understand?

A. Wanted to understand.

Q. You are suggesting to me, Doctor, that
if you had used larger words he would have understood
those words?

A. Some of them.

Q. All right. Well, let's get on now to
the heart.

What did you tell Ben about the heart?

A. That the reports that anabolic steroids
can cause enlargement of the heart muscle and sometimes
hardening of the arteries in the heart.

Q. And had Ben asked you any questions
about that?

A. Yes. Well, how would he know?

Q. I'm sorry?

A. I said how would he know if it was
affecting him?

Q. And what was your reply?

A. That the initial symptoms would be
chest pain, shortness of breath, etcetera.

Q. All right. Now -- go ahead, I'm sorry,
I didn't mean to interrupt you.

Carry on?

A. And we actually did a stress test on

each one of them originally and repeated it I think about 6 months later and then the machine was removed.

Q. What machine?

A. The stress machine called Performance
5 2000.

Q. Is that the machine that was either stolen or damaged?

A. No, that was a machine that was loaned to me by someone else.

10 Q. Oh, I see. All right. I guess you didn't have access to any other machines?

A. By referral we would have and we would have had them.

Q. We will come back to that as well?

15 A. Now, you obviously told, not just Ben Johnson about these potential side effects but even the athletes who weren't as inquisitive. You obviously told Angie Issajenko about these side effects?

A. Well I told them about side effects,
20 not in as much detail, because you could tell it to them in brief.

Q. I understand. But did you tell Angie Issajenko about the possible sides effect to the liver, to the kidney and to the heart?

A. Yes.

25

Q. And did she understand there could be possible side effects?

A. Yes, she did.

Q. Even in small dosage from long-term use?

A. Yes.

Q. And you were doubly concerned about Angie because you knew that she was doing a little bit of extra use of steroids?

A. I became more concerned when I found out that she was self medicating later on.

Q. Yes. So obviously you spent more time with her warning her about the possible side effects of the use of anabolic steroids?

A. No.

Q. You didn't?

A. No, I spoke to her, I could have spoken to her on more occasions but not in more length of time.

Q. Did you tell her after you became aware that she was using more steroids that you were prescribing that it might be dangerous for her to do so?

A. Yes, particularly after May 87 when I found, got a hold of a copy of the note.

Q. Well, did you know prior to May of 87 when you were treating her that she was using more

steroids than you were prescribing?

A. I suspected but she denied it?

Q. She denied it.

A. Yes.

5

Q. But at that time the moment you suspected you warned her that she had better not do it because there could be some very serious side effects in the use of anabolic steroids, is that correct Doctor?

A. Yes and she denied it.

10

Q. And she denied it?

A. Yes.

Q. All right. Now, you also I believe gave evidence that Ben clearly understood clearance times, is that correct?

15

A. Yes.

Q. And perhaps it was my impression that you stated, and I may be wrong and I may not recall the evidence properly, that it was not necessary to give him a bottle with a label that said don't take 28 days before a meet. I think you were asked that in chief by Mr. Armstrong and I think you said you did not give him that label?

20

A. No, I said I didn't give an anabolic steroid with that label on it.

25

Q. I see. Well what did you give him with

that label on?

A. He had a bottle of something called veralinova.

Q. And what is that?

5 A. Well, my understanding was that it was some type of - another one of those supposed sexual stimulants.

Q. I see, all right. But beyond that you never gave him an anabolic steroid such as Estragol with
10 that label on it, is that your evidence?

THE COMMISSIONER: It is not a label.

MR. FUTERMAN: It was a label of some kind.

THE COMMISSIONER: No, no. I mean a writing on it.

15 MR. FUTERMAN: A writing. Perhaps label is not an appropriate word, Mr. Commissioner, thank you.

Q. Let's forget the word label as the Commissioner suggested. Was there any writing on any bottle that you gave him that talked about clearance times
20 and 28 days.

THE COMMISSIONER: I think there is some evidence on one occasion you said December 18th or something like that?

THE WITNESS: But I didn't, I cannot recall
25 exactly but I think at one time there was supposed to be,

they were not going to compete and train for about 4 weeks, they were going to do just light tempo and jogging and it wasn't necessary to let them take it up to a later date.

5 So, I think at one time, they were directed either to stop at 28 or 30 something days before, depending on the decreased training schedule because I think they were going to travel and, you know, it didn't make sense, and it still doesn't make sense according to
10 the theory, to give them anabolic steroids when they are not in the height of training?

 THE COMMISSIONER: When they are not training?

 THE WITNESS: Yes, sir. So, if there was a
15 bottle then it would have been because of that. The only other thing I remember writing something on was a bottle that he had picked up with some tablets which I found out to be veralinova, I think they call it.

 THE COMMISSIONER: What are those?

20 THE WITNESS: They are sexual stimulants but in looking into it later on, it turned out to be a horrible extract with some type of testosterone, I don't know what it was?

 THE COMMISSIONER: Did you supply that to --

25 THE WITNESS: No, sir, those are readily

obtainable.

THE COMMISSIONER: I see.

THE WITNESS: Not here but I think in the Caribbean and Europe.

5 THE COMMISSIONER: I think Mr. Futerman was asking you about clearance times, whether Mr. Johnson understood clearance times and I interrupted you. I am sorry, Mr. Futerman.

MR. FUTERMAN: Yes.

10 Q. And I guess the other question, Mr. Commissioner, clearly, was there on any anabolic steroid that you prescribed, either directly to him or through Mr. Francis or anyone else, did you provide any kind of writing or label on any bottle or container advising of
15 clearance times, or just 28 days?

A. I just told Mr. Commissioner, I think I could have done it on one occasion.

Q. In what respect?

20 A. That they were not going to train, they were travelling for a couple of weeks and then they were doing light training so they didn't need to take it up to the 17 days.

Q. Did you put the label on everybody's bottle or just Ben's.

25 A. Oh, I think they got one bottle to

share.

Q. I see?

A. I think only 2 or three of them were going.

5 Q. So Ben did not have his own bottle, he was sharing that bottle possibly with other people?

A. I would assume so.

Q. What year was that?

10 A. I don't remember what year it was but that is the only time I would think of that it was written on.

Q. But was this the same bottle that he was using for the Estragol or was this a different bottle?

A. I don't remember.

15 Q. You don't remember?

A. No.

20 Q. Okay. Doctor, you have said earlier that you have injected Ben 50 to 60 times with anabolic steroids and then you changed your mind and said that included the injections of inosine and B-12 as well. Is that correct?

A. I said I injected him on 50 to 60 occasions.

Q. Yes?

25 A. And the injections were spread between

inosine and anabolic steroids.

Q. I think the first time when you were asked by Mr. Armstrong that you used the word anabolic steroids 50 or 60 times and in fairness you corrected that and you said that included the injections.

THE COMMISSIONER: Well on occasion you would mix them up would you not with the Estragol and the Vitamin B and the inosine.

THE WITNESS: Yes, sir.

THE COMMISSIONER: And then that would be one injection but it would be the injection though of two different substances.

THE WITNESS: Yes, but that was when they were getting them both at the same time.

THE COMMISSIONER: All right. So, the 50 or 60 times would include those as well?

THE WITNESS: Yes, because inosine/Vitamin B mixture went, that took it right through.

THE COMMISSIONER: And Estragol as well on different occasions?

THE WITNESS: No, they didn't take that right through.

THE COMMISSIONER: Pardon?

THE WITNESS: They didn't take the Estragol right through, they took it in specified - like for a

specific period.

THE COMMISSIONER: I understand.

MR. FUTERMAN:

5 Q. You obviously didn't consider the
inosine/B-12 mixture a steroid.

THE COMMISSIONER: Well, it is not.

THE WITNESS: No, sir.

10 MR. FUTERMAN:

Q. It is clearly not.

A. No, sir.

Q. All right. And you certainly never
would have told Ben it was a steroid?

15 A. Inosine and Vitamin B-12?

Q. Yes?

A. No.

Q. Of course not. In any event these 50
or 60 injections included B-12 and inosine. What was the
20 ratio between B-12 and inosine injections, if you recall,
of the 50 or 60. You said there were 50 or 60 altogether.
What portion was inosine and what portion was Estragol?

A. You mean how many times would they have
gotten inosine and how many times --

25 Q. How many times Ben would get inosine as

opposed to anabolic steroids?

A. Probably 8 times as frequently.

Q. The steroids?

A. No, the Vitamin B mixture.

5 Q. The inosine would be 8 times as frequent?

A. Yes, sir, because inosine/Vitamin B mixture they could take all --

10 THE COMMISSIONER: And how many times would you give the same at one time? Did you always mix them up or did you sometimes just give the straight Estragol?

THE WITNESS: No it was different. Sometimes you would just give the straight Estragol?

15 THE COMMISSIONER: And sometimes you would put them in with the inosine and the Vitamin B-12?

THE WITNESS: Yes. Particularly if you were travelling.

MR. FUTERMAN:

20 Q. Sir, your evidence is if you inject them around 50 times, then about 41, 42 would be inosine, or 43 would be inosine and 5 or 6 would be anabolic steroids, is that correct?

A. By itself.

25 Q. Pardon?

A. On it is own.

Q. If you are talking 8 times?

A. No, I mean anabolic steroid on it's own.

5 Q. Yes.

A. But on occasion Mr. Commissioner said he got them mixed. So it would work out to, if you are using the inosine/B complex mixture, given at the same time with the Estragol and then Estragol it would probably be, oh, probably half, 20 to 25 times.

10 Q. 20-25 times would have either anabolic steroids by itself or mixed together with the B-12 inosine?

Is that correct?

15 A. Yes.

Q. All right. Now, Doctor, when you described anabolic steroids to your athletes, you stated some of them understood the technical language, Angie; and other athletes, you talked to them at their own level and for Mr. Johnson in reply to a question by Mr. Sookram you had to break it down a little finer. Was that your evidence?

A. Because of the language, yes.

Q. Yes.

25 THE COMMISSIONER: I'm sorry, I didn't hear

the answer?

THE WITNESS: Because of the language. Ben likes speaking in the vernacular.

5

MR. FUTERMAN:

Q. Well, it is not what he likes to speak in, it is what you had to tell him so he understands is what I am interested in?

10

A. Well, I think he could understand a little bit more than just the vernacular.

Q. But in any event you saw fit to break it down a little finer for Ben Johnson?

A. Yes.

15

Q. You told Mr. Francis about the possible side effects of anabolic steroids?

A. Mr. Francis?

Q. Yes?

A. Yes, we discussed it many times.

20

Q. Yes. He knew that there were possible sides effects if even in small dosages for long-term use, is that correct. You told him that?

A. Yes, and Mr. Francis literally introduced me to the practical application of anabolic steroids.

25

Q. But that's not the question. You were

the doctor, you did some research and found out as much as you could of anabolic steroids. Mr. Francis and others came to you for advice. Did you tell Mr. Francis about the possible side effects of anabolic steroids?

5 A. Yes, we discussed it many, many times.

Q. You have heard Mr. Francis' evidence, or perhaps you have been told, that he felt the side effects in low doses were nil?

10 A. I didn't, I don't know what Mr. Francis said.

Q. All right. But if he said that, he would be wrong as far as you are concerned because you did discuss with him and told him that there were possible sides effects even in low doses as long as there was long-term use, is that correct.

15 THE COMMISSIONER: I think he said that his information was small dosages and not long-term use there would be very little likelihood of side effects. He sort of relied on - it was Dr. Clement who was saying that at one time.

20 MR. FUTERMAN: With respect Mr. Commissioner.

25 THE COMMISSIONER: But there is no doubt he gave the evidence that in his view that the side effects you are speaking of would not be important in the dosages

he thought that these athletes were taking.

MR. FUTERMAN: I understand the wisdom of being fair to Mr. Francis in terms of his evidence.

THE COMMISSIONER: I am trying to be fair to everybody, Mr. Futerman.

MR. FUTERMAN: I know that, and I am not suggesting anything other than that.

THE COMMISSIONER: I don't want anyone's evidence misstated.

MR. FUTERMAN: And I want to be fair to everybody.

THE COMMISSIONER: There is no doubt that he minimized the side effects of steroids.

MR. FUTERMAN: And I think the impression he gave to be fair again was that after consulting with the doctor it confirmed his view that the side effects were nil?

THE COMMISSIONER: I thought it was because of Dr. Clement, but I maybe wrong. That's the only reason I mentioned the name.

MR. FUTERMAN: All right. Perhaps we can check that during recess, thank you.

Q. In any event, Doctor, it was your evidence and is your evidence that Ben is knowledgeable of matters other than track and field, and that he

understands investments, is that correct?

A. Yes.

Q. And he understands - and he could read
a mortgage and an agreement of purchase and sale, you
5 would have no problems with that.

A. I never said that. I never saw him
read one, sir. I said we discussed on many occasions
investment and financial matters.

Q. Yes, and he clearly understood
10 financial matters as far as you were concerned?

A. Well, what we were discussing he
understood. He certainly understood what land at home
was worth and what condominiums were worth, etcetera.

Q. Yes. And you told him that?

15 A. Did I tell him that?

Q. Yes.

A. No, I didn't tell him that.

Q. Could he work out a good return on an
investment. Did you discuss that?

20 A. I never got into his investment.

Q. I didn't think so, I thought that was
Ross Earl's job?

A. I don't know whose it was.

Q. It certainly wasn't yours?

25 A. No, but we certainly discussed

purchasing condominiums in St. Kitts and he knew exactly how much they were worth and what he thought they would be worth.

Q. What purchases in St. Kitts were worth?

5 A. That's right.

Q. And that's with your help?

A. That's right, because he had spoken to people and found out what real estate values in the area were, and he was interested in purchasing a three bedroom
10 condominium for \$93,000 US dollars and he came up with a figure that it is only \$88,500.

Q. And that was without, no help from you?

A. Not from me. He spoke to people who obviously knew land values better than I did.

15 Q. Is it fair to say that someone else might have told him that the land value of that condo was \$88,500?

A. Well, he could have, but at least he knew enough to go and ask somebody other than me because I
20 told him I didn't know.

Q. All right. Doctor, let's talk about the reasons that you took over this group. We are not going to go into any detail but I am interested in your evidence that in 1983 when you took over their medical
25 care it was because you were concerned that they were

going to practice polypharmacy, is that your evidence, Doctor?

A. Yes.

5 Q. And 5 years later when you were still prescribing anabolic steroids, was that still your concern in 1988?

A. Pretty well, yes.

Q. Yes.

A. As much as I had control over them.

10 Q. When you first met Ben Johnson you told us that Ben mentioned that he had been taking anabolic steroids since 1981 but not taking any at the present time. You mentioned specifically the drugs as Dianabol, testosterone, and Deca-Durabolin, is that correct?

15 A. Yes, those are the 3 drugs I remember discussing.

Q. And Ben Johnson specifically mentioned those 3 drugs by name, is that your evidence?

A. Yes, he mentioned Deca as Deca,

20 Q. Yes.

A. And testo as testosterone, that is what they call it, and anabol.

Q. Those are the way he described those 3 drugs?

25 A. Yes, because they are called testo and

Deca by most of the people who use them.

Q. All right. I suggest to you Doctor that the only one that would possibly have mentioned those 3 names would be Charlie Francis who was there with him.
5 Are you sure after all these years that it was Ben that mentioned these names specifically and not Mr. Francis?

A. Yes, we were discussing it and Ben - Charlie had asked Ben what was he on on the cycle before or something, I am not sure what it was.

10 Q. Are you saying that Mr. Francis would have to ask Ben what cycle Ben was on?

A. On the cycle before. Nobody was on anything at that time but Angella. I don't think they had taken anything in '83.

15 Q. Well, my recollection of Mr. Francis' evidence was that Ben was clearly on a cycle that he had suggested and prescribed for him?

A. When they came to see me?

Q. Yes?

20 A. That's not the information I got. Angella was on anabolics when they came to see me as far as I know.

Q. Well --

A. Presently on anabolics.

25 Q. You are saying that Charlie Francis did

not tell you that Ben Johnson was at the present time and during the 1983 year on an anabolic steroids cycle?

5 A. Not when they came to see me, I don't recall being told that they were on steroids at that time just Angella.

10 Q. All right. In any event, when you told Ben Johnson about the possible side effects, did you tell me the first time you met with him, the first time that you discussed anabolic steroids, did you tell Ben at that time about the possible side effects?

A. No, because as far as I knew at that time, Ben wasn't taking any and it wasn't until a few visits later that I was asked to help him with a program. I didn't know he was taking any at that time.

15 Q. So that the first time you saw him was just to treat his injury?

A. Yes, sir.

Q. And anabolic steroids was not something that you were prescribing. Is that your evidence?

20 A. Not to him.

25 Q. All right. Now, I just want to review very briefly Doctor, when the athletes came to you, the kind of examination and the kind of tests that you ordered for these athletes from time to time. I believe your evidence was that you monitored them physically, you

checked their blood pressure and pulse and you arranged laboratory tests, hemotological and urine testing and watched them train. Was there anything else you did?

5 A. Yes, I observed the colours of their eyes and the palm of their hands.

Q. All right. Anything else. That's the physical examination?

A. Pardon?

10 Q. Was there any other tests that you ordered?

A. No.

Q. The laboratory test that you are referring to, what laboratory tests are you talking about?

A. I don't understand.

15 Q. When you ordered laboratory tests what was the nature of the tests that you ordered. As I understand it you give a form to either the lab or the hospital to do certain tests?

20 A. I went over already, Mr. Futerman. They had a CBC or complete blood count, liver enzymes.

Q. Liver enzymes, all right?

A. Urinalysis, routine and micro - microscopic.

25 Q. Let's stop at the liver enzymes for a moment. Did you order that kind of test for each and

every one of your athletes?

A. If they were going on a program, yes.

Q. You ordered it when, the first time
they came to see you or did you order it from time to
time?

A. Usually the first time, not that they
came to see me but the first time that we were even
seriously discussing them going on a program. Some of
them came in many times and never got on any program and I
wasn't going to waste any of the governments money on
them.

Q. All right. And so far as Ben Johnson
is concerned there is some evidence that you had some
liver tests done in 1984, is that correct?

A. I don't remember when sir, I really
don't.

Q. Well, how often --

A. It would have been around when he was
starting.

Q. All right. After he started, how often
did you continue to monitor his liver?

A. I can't give you an exact date. It
would be about every three to six months. I really don't
remember exactly. They were travelling a lot in '84,
prior to and during the Los Angeles olympics. So there

was a lot of in and out.

Q. Where were most of these tests done?

A. In Toronto when they were here.

Q. Was it the same laboratory that did all
5 these liver tests, the Gamma Laboratory?

A. No.

Q. All right?

A. Gamma Peel only did the lab test. As a
matter of fact I never heard of that laboratory before.

10 Q. Well, who did the previous tests?

A. Some were done by Daniel Medical Labs.

Q. Do you remember the name of the lab?

A. Yes, Daniel Laboratories.

Q. And you sent Ben Johnson there for
15 liver tests from time to time?

A. No, we had technicians at the clinic
take the blood and they would pick up. The laboratories
pick up you see.

Q. All right. But I am talking about the
20 liver enzyme tests.

A. That's the blood. You have to take
blood.

Q. I see, all right. But they would have
to be instructed to do a liver enzyme test from the blood,
25 is that correct?

A. Yes.

Q. All right. Well, who would do that, would that be that lab that you just mentioned?

A. Who would be doing the testing?

5 Q. The liver enzyme test?

A. Yes. Either Daniel Labs or Kipling Medical Laboratory. Those are the 2 most commonly used.

Q. And how frequently did you instruct these two labs to do tests on Ben Johnson's blood?

10 A. I don't remember exactly.

Q. Well, would it be every 3 months?

A. It could have been, I don't remember.

Q. You have no idea?

15 A. No, I don't remember, I can't give you an exact time.

Q. Would it be at least once a year?

A. It should be, yes.

Q. It should be, but was it?

A. Most likely, if he showed up.

20 Q. Well, would you not know if he didn't show up?

A. Yes, but I don't know, you give him the forms and send them across to the laboratory technician. Sometimes they don't see them again for weeks or months. When you do see them you ask them, some of them are afraid

25

of needles, of getting blood taken.

Q. But surely Doctor someone who tells us, as you did, that the reason, one of the reasons you started to treat these athletes was to protect them from polypharmacy. And surely since you had some concern about the possible side effects of the use of anabolic steroids would it not be your responsibility to follow up to see whether or not these liver tests were done?

A. Yes, it was. And I can't tell you how often they were done but they were done as often as required and when they would have them done. Sometimes they would refuse. Some of them don't like having blood taken.

Q. You have already said that but you can't help us as to how frequently these tests were done?

A. No, I really don't remember.

Q. And I suppose these records after the blood tests are done, the liver tests are done they come back to your office, is that correct?

A. Yes.

Q. And you would put them in a file, is that correct?

A. Yes.

Q. Which file, the roids file or the regular file?

A. The regular file would have them in.

Q. And I gather these were some of files that were destroyed or stolen when this break-in incurred?

A. I don't know.

5 Q. You don't know what happened to these?

A. No, I don't know. I don't know what all were retained by the insurance company or what, I really don't know.

10 Q. But you don't know where they are today, is that correct?

A. They are one of 3 places: Either at the office or in the hands of the college inspectors who took a bunch of charts out and whether they returned them or not I don't know. 2 bags were taken by the insurance
15 company, so I really don't know.

Q. All right. But you have no specific recollection today what Ben Johnson's liver enzyme tests showed during this period of time?

A. No, they would have been within normal
20 range I would imagine.

Q. Sure, all right. Now, you knew Angie was partial to Anavar, that is correct? You told us that?

A. No, I didn't say she was partial to Anavar, Sir. I said she brought back Anavar from Dr.
25 Conn and I told her I didn't like it after I phoned around

and found out about it.

Q. You knew that there was possible, serious side effects to the liver?

A. After I phoned around I found out that Anavar was supposedly quite hepatotoxic and I told her about this.

Q. And was it your information that she continued to use the Anavar after you warned her against it?

A. No.

Q. Okay. In any event, your evidence is that you really were not concerned because all the documentation that you were relying on showed that after the discontinuance of the use of anabolic steroids for a period of approximately 14 days, the liver normally returns to normal. The liver returns to normal, is that correct?

A. That was just part of it, Mr. Futerman. The other part was that the authorities of the day who were Haupt and Rovere had also done an intensive study and a review of anabolic steroids and they showed what was considered elevated liver enzymes for that liver enzyme and that they had recommended 2 other tests.

Q. In any event, the evidence was that usually after 14 days it returns to normal?

A. Yes.

Q. Is that correct?

A. Yes.

Q. And that was your belief?

A. Well, that was the evidence, yes.

Q. And that's still your belief?

A. Well, that's 50% of the people's

beliefs.

Q. I asked you what you believe, Doctor.

A. Yes.

Q. All right. In any event, you felt that the documentation that you read about suggested that the side-effects were tremendously exaggerated; is that right?

A. The documentation plus the experts that I had spoken to.

Q. And I guess you conveyed that message to the athletes that you were treating; is that correct?

A. No, I discussed it with Charlie, not with the athletes.

Q. You never told the athletes that you thought that the documentation that you were reading and relying on showed that the side-effects were exaggerated?

A. I showed Angie in particular. I showed

some of the documentation from the--I think it was the American Journal of Sports Medicine too, but the other athletes I never told them it was exaggerated.

Q. But you told Charlie Francis that?

5 A. I discussed it with Charlie.

Q. Did you tell him that?

A. No, I discussed it with him.

Q. What was your view when you spoke to Charlie Francis?

10 A. I said this is what the documentation is and, you know, we have to discuss it.

Q. Were you trying to tell him or persuade him that in your view, the use of anabolic steroids would not cause serious side-effects?

15 A. No, I wasn't trying to persuade him in either way. He had been involved with it before me.

Q. I didn't ask you that.

A. But I told you that.

Q. I want you to tell me what you told Charlie Francis and whether or not you used your influence, one way or another, when discussing the side-effects of the use of anabolic steroids.

A. No, I didn't.

Q. You did not?

25 A. No.

Q. You presented all the evidence to him?

A. You mean using with Charlie influence?

Q. Yes.

A. No, sir.

5

Q. But you showed him the books or the documentation that suggested that the side-effects for the use of anabolic steroids were exaggerated; is that correct?

10

A. We discussed it. I didn't show Charlie the book, Charlie had access to every document that I had.

Q. But you told him that?

A. We discussed it, yes.

Q. You told him that?

A. I discussed it.

15

Q. Did you tell him that?

A. No, to tell somebody is to direct it.

I discussed it.

20

MR. LEVINE: With respect, my friend represents Mr. Johnson. What this witness may or may not have said to Mr. Francis, I don't really see the relevancy of that. He said they discussed it--

MR. FUTERMAN: I'm moving to another area anyway, Mr. Commissioner.

THE COMMISSIONER: He's moving on.

25

MR. FUTERMAN:

Q. When Mr. Armstrong last week pointed out that a normal enzyme count for the liver was between 5 and 35 and Ben Johnson had a liver enzyme recording of 61, which was abnormal on August the 31st, 1988, you were not concerned because you recognized, in your opinion, that within 14 days, that count would likely return to normal; is that correct?

A. No, it's not. That's not what I said. I said I was concerned but not overly so, and I didn't just say because it was going to return to normal within 14 days. I said because when I got the notification about ten days later, clinically he was fine.

Q. You got the notification ten days later--

A. When I was in Narita I was phoned.

Q. And clinically he appeared to be fine?

A. Yes.

Q. And how did you come to that conclusion?

A. Because he had no signs or symptoms of liver problems, kidney problems, no facial changes, no changes in the colour of his eye and he said his urine and stool were fine.

Q. But isn't it fair to say that those

kinds of changes would become apparent in the advance stages of liver dysfunction or liver damage. He still could have liver dysfunction and those changes would not yet manifest itself visibly.

5 A. If you had liver problems giving you anything like that, you would feel it physically. He wouldn't be able to be--to exert--

 Q. Are you suggesting even in the early stages that is the case?

10 A. No, I'm suggesting that his enzyme was on the way down and it was not just caused from the shots, it was caused from skeletal-muscle exertion, as I said yesterday.

 Q. You're saying that his enzyme count was on its way down. You said it was 61. What do you mean by it being on its way down? I didn't hear any other numbers?

 A. Pardon?

20 Q. I didn't hear any other numbers other than 61.

 A. Clinically it wasn't going up.

 Q. But in any event, wouldn't it have been wise in retrospect to have done a follow-up just to be sure that it wasn't going up but it was going down?

25 A. Where?

Q. What do you mean where?

A. In Japan?

Q. No, after you came back to Toronto.

5 A. Yeah, we tried to, but Ben told me that
you told him not to speak to us.

Q. Could you have not written a letter to
me suggesting the wisdom--

A. No,--

Q. Let me finish the question, Doctor.

10 A. I told him to go to Dr. Sussman and he
said he would.

Q. Did you tell him that he had an
abnormal--

15 THE COMMISSIONER: I'm sorry, I didn't hear
something about Dr. Sussman?

20 THE WITNESS: I told him he had an abnormal
test in Narita, Japan when I was phoned, and when we got
back here, the understanding was they would have the test
repeated. About three or four days later, the same day as
that famous meeting up at Mr. Azan's farm, Ben phoned me
when he got back and said he has been advised not to speak
to us or be in contact with us, and I advised him to go to
Dr. Sussman who he told me was his family doctor at that
time and advise him that he had tests done, including a
25 specific test that was positive on his urine.

MR. FUTERMAN:

Q. Doctor, your evidence is that you told Ben that he had an abnormal reading on his liver enzyme count?

5 A. Yes, sir, absolutely.

Q. And that you advised him to see a doctor?

A. When I came back here, we were going to do it, and after he told me what he had been advised to do, I told him to go to his family doctor who he said was Dr. Sussman.

10

Q. In any event, you didn't speak to his mother, you didn't call me to tell me about this or call anyone else; is that correct, other than this phone call with Ben that you say you had?

15

A. Ben is quite capable of taking his own messages and doing what he is advised to do.

Q. I see. In any event, you felt that you told him and that was the end of it; is that correct?

20 A. Yes, I figured he would go.

Q. In any event, you weren't too concerned about it because clinically it did not appear to be something that would be serious; is that fair to say?

A. I advised him to go to a doctor.

25 Q. But in any event, you weren't too

concerned because clinically it did not appear to be serious?

A. Mr. Futerman, I advised him to go to a doctor. That is concern enough.

5

Q. All right. Now I believed that your evidence was that the test that was done, the liver enzyme test that was done, I think you referred to it as the SGOT. It's a non-specific test.

10

A. No, it's called a non-specific liver enzyme.

Q. And that is not as reliable as other liver enzyme tests. Is that your evidence?

A. Well, alkaline phosphatase and liver iso enzyme, LDH iso enzyme.

15

Q. What about something called GGT?

A. That's a glucose tolerance test. That's for hypoglycemia. You mean SPGT. That's not as exact either. That's a non-specific one too.

Q. Well, just let me see.

20

A. You mean SGPT, sir.

Q. Pardon?

A. You mean SGPT, which is also a non-specific liver function test.

25

Q. Just give me a moment. Let me just check to see what I have got here. I thought a

gamma-glutamyltransferase--

THE COMMISSIONER: Do you want to spell that?

5 MR. FUTERMAN:

Q. Yes, I will. First I wanted to see if I could pronounce it. Now I've got to spell it. Gamma, G-A-M-M-A - G-L-U-T-A-M-Y-L-T-R-A-N-S-F-E-R-A-S-E, or GGT.

A. Oh, gamma-glutamyltransferase.

10 Q. Or GGT. Just as I described.

A. No, you said GTT.

Q. I said GGT. In any event, I apologize. It doesn't matter.

15 THE COMMISSIONER: Let's get it right and let's get the answer.

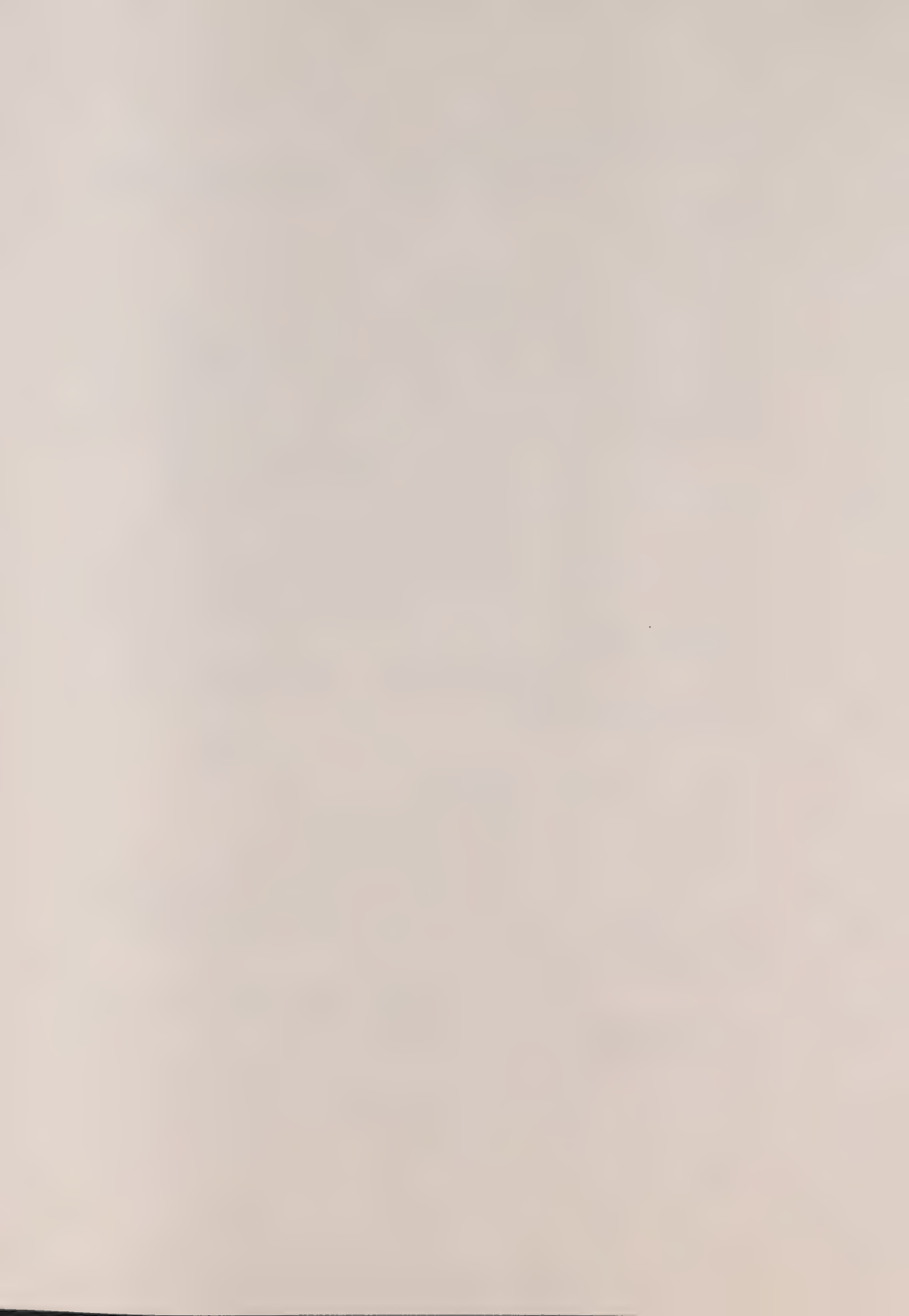
MR. FUTERMAN:

Q. What is the answer?

20 A. The answer is that the two specific liver function tests that were advised were alkaline phosphatase and LDH, sir.

THE COMMISSIONER: What was the one that Mr. Futerman was asking about?

25 MR. FUTERMAN:



Q. What about GGT?

A. I don't know very much about that one.

Q. But is it fair to say that's one of the liver enzyme tests?

5 A. It sounds like a liver enzyme. It's a transferase, yes.

Q. But you're not familiar with that test?

A. Not that familiar with it being specific for anabolic steroid and metabolism.

10 Q. All right. What if I was to suggest to you that a leading liver expert in this city considers it to be a very important test. Would you accept that, Doctor?

15 A. Yes, if you mean Doctor Fisher, certainly.

Q. There are other liver experts, are there not?

A. I thought he was the big one

20 Q. Is that the only one whose evidence you would accept?

A. No, no. I said if it was his, certainly.

25 Q. Oh, I see. Okay. Now, in any event, I suppose if a test had been done by November or December 1988, it would be probably too late because at that time

Ben most likely would have returned to normal?

A. I don't know, sir. I don't know what Ben did after the 2nd of October, 1988. I have no idea what he did.

5 Q. Well, Doctor, if I was to tell you that on March the 10th, 1989, Ben, in fact, did have a complete examination by an endocrinologist with a number of liver tests performed and that on March the 10th, 1989, or thereabouts, a GGT test was done on Ben's blood and his
10 level was found to be 72 with a normal range being between 7 and 35. What would be your reaction to that, Doctor?

A. I would like to know what he has done since October.

15 Q. If I was to suggest to you, Doctor, that that is clear evidence that at that particular time, that the anabolic steroids that he had been taking for a number of years was most likely the reason he had an elevated count, what would be your reaction to that?

A. I would argue with you.

20 MR. LEVINE: Sir, with respect, my friend is referring to some medical report that apparently was prepared after the fact.

MR. FUTERMAN: Mr. Armstrong has a copy of this report.

25 THE COMMISSIONER: Have you shown it to Mr.

Sookram?

MR. FUTERMAN: I have not shown it. I would be delighted to show it to him at the lunch break. More importantly, Mr. Commissioner, I have provided this
5 copy of this report to the Commission counsel some months ago and this doctor has undertaken to come forth and testify.

THE COMMISSIONER: I'm not challenging that. You're a little touchy this morning, Mr. Futerman.
10 I just asked a nice, quiet question, which is my style.

MR. FUTERMAN: I apologize. You're quite right, sir.

MR. LEVINE: Sir, I wonder if we might have a copy over the lunch break--

15 THE COMMISSIONER: I don't like people being touchy. It becomes infectious.

MR. LEVINE: I'm sorry. I say, I wonder if we might have a copy over the lunch break and maybe reserve our comments.

20 THE COMMISSIONER: We'll discuss it. Some of it may not be relevant and I would want to protect any personal matters of the doctor's.

MR. FUTERMAN: Thank you. I'm sure that counsel will use good judgement. I will discuss it, and
25 perhaps we can complete this part of the examination at

that time.

THE COMMISSIONER: All right. We'll
adjourn now. Thank you. Have a nice lunch. 2:30.

5 ---Lunch adjournment.

---Commission resumed.

THE COMMISSIONER: Mr. Futerman, this
morning there was some discussion as to the evidence given
10 by Dr. Francis on one of the matters you raised, and I
thought the passage that I had in mind which I would like
you to refer to at your leisure, is Volume 20 at pages
3644 and pages 3657 following and Volume 24 at page 4454.

MR. FUTERMAN: Thank you, Commissioner. I
15 certainly will.

THE COMMISSIONER: Those are the passages I
had in mind when I interrupted your cross-examination.

MR. FUTERMAN: Thank you.

THE COMMISSIONER: Pursue the matter now,
20 please.

MR. FUTERMAN:

Q. Dr. Astaphan, I understand that you now
are in possession of two medical reports or at least your
25 counsel--



THE COMMISSIONER: I don't think they had time to read them.

MR. FUTERMAN: That's what I was going to point out, and I might come back to this later on.

5 THE COMMISSIONER: Okay, that's fine.

MR. FUTERMAN:

Q. For the record, I want to clarify that there was a further test done on April the 28th, 1989, a further GTT test done by the same doctor. At that time, it showed a level of 61 so that was approximately two months later. I understand that you want to read the reports and then we are going to discuss it further; is that correct, Doctor?

10

15 A. Yes.

THE COMMISSIONER: That will be fine. Okay, thank you very much, Mr. Futerman.

MR. FUTERMAN:

Q. Doctor, the eastern bloc athlete that we have talked so much about that brought the Estragol or the Furazabol, why would he bring 48 bottles from Europe to Canada? Did he know in advance that he was about to make a trade?

20

25 A. Not to myself, no, but they usually

bring stuff and trade it.

Q. This is a common thing?

A. Yes, sir.

Q. Even when they are bringing something
5 as secretive as Furazabol?

A. They bring lots of things.

Q. And they commonly trade it?

A. Yes.

Q. Well, they didn't know in advance that
10 they were coming to trade with you, did they, Doctor?

A. No, he thought he was going to be
trading with a person he visited in Montreal.

Q. This was this Canadian athlete?

A. Yes.

Q. All right. And this Canadian athlete
15 referred him to you at this time; is that correct, in
1985?

A. Yes, he phoned me.

Q. Was this a Canadian athlete? I know we
20 can't mention his name at this time, but were you treating
this athlete?

A. No, he came to me on three or four
prior occasions to get the inosine vitamin B mixtures.

Q. In any event, this athlete came with
25 the East German athlete to your home or to your office in

Toronto; is that correct?

A. Yes.

Q. And that your evidence was that he told you about this Furazabol but that you couldn't get it tested. Is that your evidence, Doctor, because it wasn't the kind of thing that you wanted to advertise?

A. I said I didn't get it tested.

Q. But your reasons were that you wanted to keep it a secret?

A. That was one reason. The other reasons were, A, we had to get it tested and B, the cost of testing it.

Q. Well, I understand that there are some underground labs that would test this for you; is that correct, Doctor?

A. Oh, I don't think they have equipment to test.

Q. They don't have the equipment to test?

A. Not to test, I don't think so.

Q. But you're not sure?

A. Oh, I would venture that they don't.

Q. How do all these underground labs, how are they able to create all these different types of steroids and blocks and tests to see which one works?

A. Well, where they get their supplies

from, I don't know. I have never looked into that. I don't own an underground lab, Mr. Futerman.

Q. But they must do some testing to determine how these various blocks are able to work, so
5 there must be some labs available for that purpose.

A. I think they are tested in the field.

Q. In the field, I see.

THE COMMISSIONER: By use, you mean?

THE WITNESS: Yes, sir.

10

MR. FUTERMAN:

Q. You were told to keep a secret; is that correct?

A. Yes.

15 Q. And I believe, by recollection of your evidence was that you decided that you could tell the Canadian team or your athletes, the Mazda group, the inner core; is that correct?

A. Yes.

20 Q. Was that with the permission of the athlete from Montreal and the East German athlete?

A. Yes, he was told who it was going to be used for.

25 Q. Yes, and they weren't concerned about the competition from your group?

A. No.

Q. But they didn't want the Americans to know; is that correct?

5 A. Because they competed in the same type of events. Our group didn't. At least we didn't have anybody to compete with them in their events and they didn't have anybody in our events.

Q. I thought the East Germans were pretty good in track and field; is that correct?

10 A. Yes, but not male sprinters and our female sprinters couldn't keep up to theirs.

Q. So they weren't concerned about Angie Issajenko and people like that?

A. No, sir.

15 Q. I see. You told Charlie Francis and the athletes that you've mentioned, the three athletes that were at that meeting sometime in 1985; is that correct?

20 A. There were four, but I don't remember who the fourth one was.

Q. And the fact that none of these athletes remember or have testified, of course Ben Johnson has not yet testified, but certainly Angie Issajenko has no recollection, Charlie Francis has no recollection. I
25 don't know if you said Tony Sharpe is the other athlete.

A. I don't know. There was Charlie, Ben, Angie and there was a fourth person. It could have been Tony or not. I don't know the fourth person.

5 Q. Can you think of any reason why these three people that have testified thus far would come to this inquiry and deny the use of Furazabol or that you told them about Furazabol?

10 THE COMMISSIONER: What they said is they were told it was Estragol and that's what they thought they were using at the time.

MR. FUTERMAN:

15 Q. The evidence of Charlie Francis and Angie Issajenko at no time indicated that you told them that they were using Furazabol or that you told them they were using Furazabol. They thought they were using Estragol. You're saying that they are mistaken?

20 A. I'm saying again that it was discussed what it was, what we were supposed to call it and it was agreed that it would be referred to from there on as Estragol or the white stuff.

Q. And there is no doubt in your mind they understood that, Charlie Francis and Angie Issajenko and the others?

25 A. No doubt in my mind.

Q. No doubt?

A. No.

Q. So if they deny that now, they are not telling the truth; is that your evidence?

5 MR. SOOKRAM: Sir, we have nobody denying it. It was never put to anybody whether or not--as far as my memory goes, it was never, ever put to anybody that Estragol or Furazabol--

10 THE COMMISSIONER: It was made clear I think. That's where the whole sabotage theory developed because Mr. Francis and Ms. Issajenko were convinced that they were taking Furazabol and not stanazolol, whatever the doctor thought he was buying. Apparently what he gave Mr. Francis was the stanazolol.

15 MR. SOOKRAM: Yes, sir, but nobody put it either to Mr. Francis or Ms. Issajenko as to whether or not Furazabol was Estragol.

20 THE COMMISSIONER: It's completely consistent with their evidence though. We'll check the record. They kept insisting that they thought it was Estragol and not stanazolol.

MR. SOOKRAM: Not stanazolol but nobody put it to them that it could have been Furazabol. They never denied it.

25 THE COMMISSIONER: They all testified they

were told it was Estragol.

MR. SOOKRAM: Yes.

THE COMMISSIONER: And that they were convinced it was Estragol and it was not stanazolol, and that's why this whole sabotage theory was developed. I think that's what their evidence was.

MR. SOOKRAM: Yes, sir, but Mr. Futerman's question was as regards--

THE COMMISSIONER: I think it's fair to say then that they all said it was Estragol?

MR. SOOKRAM: Yes.

MR. FUTERMAN: Thank you, Mr. Commissioner.

THE WITNESS: Excuse me, may I make a comment directed to you, sir. You just said that what I gave Charlie Francis was obviously stanazolol. I don't think that's a fair statement.

THE COMMISSIONER: Well, according to Mr. Francis' testimony, what you gave him is what we have here through Ms. Issajenko. You told us when you left here in '86 you gave him--as I understand it, you gave him--you took three bottles for yourself, you gave three bottles to Mr. Johnson and you gave the rest to Mr. Francis?

THE WITNESS: Yes.

THE COMMISSIONER: And the evidence to date is that Mr. Francis used that with the athletes in his

apartment subsequently in '88, transferred it to Ms. Issajenko and they were all using it during this period of time, and that's what the evidence is today.

5 THE WITNESS: There is an innate assumption in that.

THE COMMISSIONER: The assumption in that is that what Mr. Francis gave Ms. Issajenko and Ms. Issajenko gave us is not--it's a new source of supply they got on their own. Is that what you are saying?

10 THE WITNESS: Clinical evidence would bear that out.

THE COMMISSIONER: All right. I think that's what you must be saying. I asked Mr. Sookram that and he said he wasn't making any such suggestion. You
15 agreed to Mr. McMurtry that it wouldn't make any sense for Mr. Francis to substitute a different drug from what he got from you.

THE WITNESS: That's right. That's as far as I agreed.

20 THE COMMISSIONER: But Ms. Issajenko might have?

THE WITNESS: I beg your pardon, sir?

THE COMMISSIONER: Ms. Issajenko might have in '88? According to Mr. Francis, they were using the
25 same substance. Whatever you thought it was. As you say,

you thought it was Furazabol. There is no sense debating it now, but following Mr. Futerman's line of questioning is that all the evidence as it was, they said that it they thought it was Estragol. Nobody said that you told them
5 it was Furazabol, but perhaps they weren't specifically asked that. I'm not sure. I think that's Mr. Sookram's question.

MR. FUTERMAN:

10 Q. I would suggest to you, Doctor, that one of the reasons that you are advising us these last few days that you have told the athletes that they were getting Furazabol because you know, as a doctor, that you cannot prescribe drugs to any patient without telling him
15 what kind of drug you're prescribing, and I suggest to you, Doctor, that for you to admit now that you gave them a drug other than Furazabol and that they knew or didn't know, you would be in serious trouble, and that is your motivation.

20 A. Do you want me to answer that, Mr. Futerman?

Q. Sure.

A. Well, just to get the matter straight, I came to Canada voluntarily to give evidence. It's not
25 under any duress which was tried, so I don't have to come

here and lie. I could have stayed in St. Kitts and hidden if I had anything to hide.

Q. Thank you.

THE COMMISSIONER: I think what may have
5 happened is that your East German friend may have duped you in the sense of selling you something that wasn't what you thought it was, except in your evidence you thought it was Furazabol.

THE WITNESS: Mr. Dubin, on numerous
10 occasions we have gone over the fact that they took stanozolol or Winstrol tablets which are 2 milligrams, and after five days, two people had to quit. One cc of stanozolol or Winstrol or Winstrol V or Stromba has 50 milligrams per cc.

THE COMMISSIONER: It depends how you
15 administer it I think you told us.

THE WITNESS: If they were getting a half a
cc, 1 cc and 2 cc's so they would obviously cramp up. That would be like taking up to 50 tablets at a time.

THE COMMISSIONER: Well, we are just having
20 a discussion at the moment. We had better pursue Mr. Futerman's examination.

MR. FUTERMAN:

Q. I suggest to you, Doctor, that the
25

truth is that either the East German athlete gave you
stanozolol which he told you was Furazabol and you
believed him because he gave you some literature which
talked about Furazabol, or the alternative is that all
5 that Winstrol V that you purchased from Sterling Drugs,
the injectable Winstrol V, was put in containers, given to
Charlie Francis and that is what was ultimately tested.

I suggest to you that either the East German
athlete conned you into believing that you were getting a
10 drug called Furazabol when he was giving you stanozolol or
simply you have made up this wonderful work of fiction; is
that correct, Doctor?

A. No. The second part is definitely
wrong factually. The first part, on clinical evidence
15 that I just explained to Mr. Commissioner, they couldn't
have been on stanozolol. If they were getting up to 50
times the dosage of the tablets, they would have cramped
up badly, real badly.

Q. Doctor, with great respect, I suggest
20 to you that without testing what you got from the East
German athlete, you had no way of knowing whether or not
what he gave you was stanozolol or something called
Furazabol. He told you it was, he showed you an insert
and you just accepted that. Is that not reasonable,
25 Doctor?

A. Clinically, no. Not from clinical observation, sir. Not if they took five tablets and cramped up.

Q. These were tablets, right, that you
5 gave them before?

A. They took five tablets previously.

Q. Now you were giving the injectable.

A. Yes.

Q. Is it not possible, Doctor, that the
10 oil-based and the water-based may work differently on these people?

A. There is no oil-base on--

THE COMMISSIONER: You said you have not experimented with a saline solution of the Winstrol.

15 THE WITNESS: An aqueous suspension?

THE COMMISSIONER: No, stanozolol.

Whatever this milky-white stuff is that we have analyzed.

THE WITNESS: The effects are the same, whether you took it by mouth or injection.

20 THE COMMISSIONER: I think you've told me you've never used it so you wouldn't have that clinical--

THE WITNESS: But it's the same chemical makeup, Mr. Commissioner. It would obviously have the same effect.

25 THE COMMISSIONER: This material that we

have, it has Mercury in it, by the way. The pill doesn't have Mercury. This has Mercury in it as well as stanozolol.

THE WITNESS: I don't know.

5

MR. FUTERMAN: I'm sorry, Mr. Commissioner.

Q. In any event, you personally have had no experience with injectable Winstrol?

A. No.

10

Q. Is that correct?

A. Yes.

15

Q. Mr. Armstrong suggested to you that the steroid program before 1988 may have been as a result of a panic because of a disappointing European trip. You said it was not disappointing and Ben had come back uninjured. Was that your evidence?

A. Yes, sir.

20

Q. Well how about his hamstring? Was that healed when you embarked on that steroid program on or about August the 23rd?

A. Yes.

Q. That was completely healed?

A. Yes.

25

Q. Now what about this--just so I'll make sure we have the right parts of the anatomy, the plantaris

tendon, had that healed?

A. No, he had had that since early in the year.

Q. Where is that exactly located? I think
5 you said behind the knee; is that correct?

A. Yes, it's behind the knee, on the lateral aspect of the knee.

Q. That hadn't healed yet?

A. No, sir. Every time he accelerated, he
10 aggravated that and his heel.

Q. So that was of some concern to you.

A. We could control that.

Q. What about his Achilles heel problem?
Was that now healed?

A. What happened, what we discovered in
15 Europe about his heel was that the shoes which were supposedly custom made for him by a European company had a wrong backing.

Q. Yes, I think that was your evidence.

A. And we had to tape it and adjust it.
20

Q. And once you did that, it was fine?

A. No, it wasn't fine. Every time you exert that pressure on it, it bothers you still.

Q. Well, in fact the pressure was severe
25 enough that you injected him with a cortisone shot; is

that correct?

A. Yes, on two or three occasions.

Q. And cortisone shots is not something
that one normally injects anyone with unless there is a
5 fairly significant injury that you are concerned about.
It's sort of a last resort, because you only can take so
many cortisone shots before they are of no further effect.

A. That's not quite true.

Q. Well, tell me what your explanation is.

10 A. My explanation is that at the time when
he received the cortisone shots, the depo-medrol and
xylocaine, he was injured and in pain and that was the way
they treated to get him pain free, clear up the
inflammation and get him back running.

15 Q. Well, you did that the first time? The
first time I believe you did the Achilles heel on or about
sometime in June; is that correct? Perhaps you can help
me with this.

20 A. I don't have a copy of the chart. I
gave it to--I don't know.

Q. Do you remember when you gave him the
second injection?

A. In his heel?

Q. Yes.

25 A. No, but I think he got two or three

between Japan and Seoul.

Q. Is it fair to say that he probably got two of those injections while he was in Seoul?

A. Probably.

5 Q. In fact he might have even got one around the time that he was running one of those big races?

A. I think he got one either a day or two before one of his races.

10 Q. Well, I have some information that might suggest September the 24th. Does that sound correct?

A. I don't have the charts.

15 Q. Now, you wouldn't have given him these two injections in Seoul unless you were really quite concerned about the condition of his heel. Is that not right?

A. That's right.

20 Q. So that by the time you got to Seoul in September, he was having significant disability with his heel.

25 A. No, he wasn't having disability, he was having pain after running or training. The only time it bothered him to the point where he couldn't train for one day was in Narita, Japan.

Q. Wasn't there some concern that without being able to train, he wouldn't be able to run?

A. Not for one day.

5 Q. Is that all he had problems with his heel, for one day?

A. That's not what I said. I said it was bad enough that he didn't have to run for one day.

Q. That he couldn't run for one day?

A. That he couldn't train for one day.

10 Q. So that was pretty significant at this crucial time, but you injected him on the 24th approximately, it may have been a day or two one way or another. This was right in the middle of his races?

A. That's right.

15 Q. So obviously when he came off the track, he was having significant problems or else you would not have injected him; is that correct?

A. I don't know when he came off the track. I didn't see him until the nights. I never saw
20 him during the day, but when he came back to the hotel at the night, he was limping.

THE COMMISSIONER: You're talking about on September 24th then.

25 THE WITNESS: I never saw him during the day. When they left the hotel, I had no access to--

THE COMMISSIONER: I understand that.
We're talking about after the race, after the final?

THE WITNESS: No.

THE COMMISSIONER: Is that what you're
5 talking about?

THE WITNESS: No, that's before.

MR. FUTERMAN: It may have been before.
The date may be incorrect. That's why I'm saying--

THE WITNESS: The final was the 26th or 27th
10 or something like that. I'm not sure.

THE COMMISSIONER: The race was run the
September 24th. Is that the same one we're talking about?

MR. FUTERMAN: I thought the race ran
around the 24th.

15 THE COMMISSIONER: It is. It was on the
24th. I think you gave evidence I think one or two days
before that. It may have been the day before. You did
have to look after his ankle, his Achilles tendon, I
should say.

20 THE WITNESS: I don't remember what day the
race was on.

MR. FUTERMAN:

Q. In any event, you injected him while he
25 was in Seoul on at least two occasions, and I suggest to

you, Doctor, that suggests a very significant concern about his injury to his heel.

A. He was in bad pain.

Q. Yes, so that when you said earlier that
5 he was coming along well and therefore--

A. I meant his hamstring.

Q. I'm sorry?

A. I meant his hamstring. That's what
concerned us, not his heel.

10 Q. But I think that Mr. Armstrong was
talking to you about the fact that there may have been
some reason to panic because of a disappointing European
trip, and I suggest to you, Doctor, that one of the
reasons that he might have run so poorly on this European
15 trip was not just his hamstring injury but perhaps his
Achilles heel injury as well. Do you have any comment to
make on that?

A. Yes, sir. We were pleased with his
performance coming out of the European meet. Our main
20 interest was that he came out of the races without
reinjuring his hamstring and he certainly did so.

Q. So that the hamstring was your main
concern?

A. Yes.

25 Q. But not your only concern?

A. No.

Q. Obviously you wouldn't have injected him on three occasions with cortisone shots in his heel unless you were concerned, and I might suggest very
5 concerned, about his Achilles heel injury. Is that fair to say?

A. No, you're putting words in my mouth. I didn't say very concerned. I said I was concerned because it was paining him to the point that it was
10 hindering his running and his takeoff.

Q. Doctor, I suggest to you that when you give somebody three injections of cortisone within a short period of time, that suggests to me and hopefully to you that you were very concerned about his injury to the
15 Achilles heel.

THE COMMISSIONER: He says he was concerned. He is not prepared to put the appellation of "very" on it.

20 MR. FUTERMAN:

Q. Thank you, sir. Did you at any time suggest to Ben or to anyone on his behalf that he should see a specialist in respect to his injury to his heel or to his hamstring? An orthopedic specialist, for example?

25 A. To his hamstring?

Q. Let's talk about his heel, his Achilles heel. You're certainly not a specialist in orthopedics, are you, sir?

5 A. No, but I consider myself quite competent in sports injuries.

Q. Well, are you aware of what effect repeated injections might have to the tendons of the Achilles heel?

A. Sure I am.

10 Q. Are you aware that there is a risk of rupture of that tendon if you continue to inject it?

A. Yes, depending on the quantity.

Q. At what quantity do you stop?

15 A. It's all relative to the volume of the stuff given, the dosage.

Q. I suggest to you, Doctor, that your only concern in injecting him as you did was to get him ready for that big race or races in Seoul, and after that, you didn't care what happened to his heel.

20 A. You are obviously kidding, Mr. Futerman.

Q. No, I'm not kidding.

A. Well, I suggest you are.

Q. Is there any answer to that?

25 A. Yes, the answer is you're wrong.

That's not true.

Q. Well, Did you try to follow-up his Achilles heel injury after your return?

5 A. How could I when you told him not to speak to me?

Q. Well, there's other ways of getting in touch with him surely.

A. How?

10 Q. Well, either contact me or contact his mother?

A. Contact you? I didn't know you, sir. None of us could get through to the house. If you remember the directions given, they wouldn't let us speak or get in touch with him.

15 Q. That's probably correct, Doctor, but you could have called me and told me that he has a serious Achilles heel injury which should be followed up on.

20 THE COMMISSIONER: Well he didn't, Mr. Futerman, and it may not have come to his mind to call you. I think you said you spoke to Ben about going to see a doctor?

THE WITNESS: Yes, he said Dr. Sussman was his doctor and I advised him to go there for laboratory follow-ups.

25 THE COMMISSIONER: Not the heel though?

THE WITNESS: No, by the time we got back here, he was walking perfectly well. His heel wasn't paining him.

5 MR. FUTERMAN:

Q. Are you suggesting by the time you got back his heel was fine?

A. Pretty well, yes. He wasn't complaining and the swelling had gone down. Every time he trains it will act up, and he has been training since.
10

Q. We may hear some evidence to the contrary, Doctor.

A. Well, that's fine.

Q. Doctor, when you found out Ben had tested positive, you asked him on three different occasions if he had taken steroids or the pink pills. Do you remember that?
15

A. I didn't say the pink pills.

Q. What did you say?

A. I said any pink pills. I made that quite clear to Mr. Armstrong.
20

Q. Any pink pills.

A. Right.

Q. Why do you believe that Ben would have taken any pills so close to an important race or series of
25

races at that particular time? Ben was certainly smart enough to know better. Why would he do that?

 A. He was smart enough to know better, but it was a question I had to ask him because there is no way he should have tested positive for stanozolol.

 Q. On three occasions he did not at once or didn't answer you once?

 A. He didn't answer me twice. Twice he didn't answer me. The third time he said "mmm" which I took to mean no.

 Q. He answered "mmm".

 A. Yes.

 Q. Did you believe that he would have taken the steroid?

 A. I had hoped not.

 Q. Well, did you believe it was possible that he did?

 A. Mr. Futerman, anything is possible.

 Q. I suppose that's true.

 A. But I had hoped not.

 Q. All right. Dr. Astaphan, I think the first or second day you testified last week, either Exhibits 184 (a) and (b), that you alleged you took off Ben. That was I believe the--

 THE COMMISSIONER: It was identified as the

bottle.

MR. FUTERMAN: That was the bottle and a
container. One was the L-dopa and I think the other one
was identified as the testosterone and perhaps other
5 ingredients.

THE COMMISSIONER: It's a brownish
substance bottle.

MR. FUTERMAN: I don't need the exhibit.
10 Do you know which ones we are talking about?

A. Yes.

Q. All right. My impression was, Doctor,
that you were quite anxious once you got out of Toronto to
get rid of any of the evidence of the bottles or
15 containers that had anabolic steroids in it. I think you
said you took three bottles back with you to St. Kitts or
perhaps there were others. I don't know.

THE COMMISSIONER: 1986 I think he took
them.

20 MR. FUTERMAN:

Q. 1986 of Estragol, and that was it. I
mean, why would you possibly keep, I suppose as a
souvenir, these two containers that Ben Johnson either
25 gave you or you took off him sometime earlier or sometime

later? What possessed you to keep those in your possession?

5 A. Because they were in a drawer with lots of other things that had been there since I went into that office in '86.

Q. So you kept that bottle, that brown or rusty substance, for a couple years for no reason other than to--

A. I didn't say a couple of years.

10 Q. How long did you keep it?

A. That was from May '88.

Q. May '88, and you kept it all this time?

A. Yes.

Q. Why?

15 A. It was just in the drawer, the L-dopa was, and that was there for two or three years.

Q. Which drawer?

A. The drawer in my office.

Q. Is this your office in St. Kitts?

20 A. Yes.

Q. Do you have a secretary there?

A. Do I? Yes.

Q. You're saying that she would never have seen that?

25 A. If she would have seen that?

Q. Yes.

A. No, the L-dopa was in the office drawer and I think the bottle was in my cabinet at home with other bottles.

5 Q. Why would you keep the L-dopa at home? What was the purpose?

A. The L-dopa was in the office I said.

Q. Well, the other one was at home. Why would you keep the L-dopa in your office?

10 A. It was on the shelf with other medication.

Q. You weren't going to use it, were you?

A. No.

15 Q. Was there any reason why you possibly would want to keep it?

A. No.

Q. I suggest to you, sir, that these were not bottles or containers that you received from Ben Johnson.

20 A. Mr. Futerman, they were obtained from him.

Q. All right. Doctor, you've talked about the Hippocratic Oath in 1983 when you first started to treat these athletes, but by 1988, you were the most renowned steroid maestro doctor in the world.

25

THE COMMISSIONER: Are giving that
appellation or is that--

MR. FUTERMAN:

5 Q. I'm asking you; is that correct? By
1988, you were famous.

A. You seem to be overlooking the fact
that I was well-known for sports injuries and not
particularly steroids.

10 Q. But surely, all the athletes around the
world that were interested in anabolic steroids knew about
your expertise in that field as well by this time. Is
that not correct?

A. Well, they had inklings.

15 Q. They had more than inklings. You were
approached by athletes from all over the world, not just
for their injuries but for the use of the kind of anabolic
steroid program that you were administering to the
athletes in Toronto; is that not correct?

20 A. I was approached by a lot of athletes
to discuss not the Toronto program but--

Q. But anabolic steroids?

A. Yes. If you go to a track meet with
300 athletes, it's inevitable, isn't it?

25 Q. And I suggest to you, Doctor, that you

were at least finally getting the recognition that you so richly deserved, the recognition that up until now had been given to Charlie Francis and others but that you, Doctor, was the one that obviously felt that you were responsible for these athletes running so well. Is that fair to say, Doctor?

A. No, that's really unfair.

Q. So you were not jealous that Charlie Francis was getting all the credit for the performance of these athletes when you in your own mind felt it was your program of anabolic steroids since 1985 that was a major reason for their success?

A. No, absolutely not.

Q. You were never jealous?

A. No.

Q. All right. You're also trying to give this inquiry the impression - perhaps you are not - and I should ask you this, were you or were you not interested in going to Italy and to open up a clinic in Italy?

A. That was something that was discussed and on numerous occasions to hold clinics, coaching and medical clinics and physiotherapy clinics initially with the possibility of having a clinic there and getting it used as a summer training camp.

Q. Was this for the Canadian athletes or

for the Italian athletes?

A. The Italian athletes -- there were four Italian athletes who were interested in having it. Four or five.

5 Q. And it was your intention to leave the Canadian group, and in fact you had partially left them already, and that you were going to live in Italy, at least part-time, and look after this clinic for the Italian athletes?

10 A. Part-time, yes.

Q. And that this was something that was very exciting to you and very interesting to you; is that correct, Doctor?

15 A. It was interesting. I don't know about exciting.

Q. Well, is it fair to say that one of the reasons that you were approached to open up this clinic was because of your knowledge of anabolic steroids; is that correct, Doctor?

20 A. No.

Q. That is not correct?

A. No, because there is an authority in Italy who is far more knowledgeable than me on anabolic steroids.

25 Q. Well, I think you've given evidence

that Francesco Pavoni had obviously recommended you for this job; is that correct?

A. I don't know if he recommended me to his father, but--

5 Q. Who else would it have been?

A. Waldemar did.

Q. How would Waldemar know Francesco's father?

10 A. Waldemar was the one who treated Francesco after his injury in Rome, not me and he met them and then he introduced me to Francesco.

Q. And this clinic, you feel Waldemar was the one that was introducing you to that clinic, not his son, not Pavoni's son, not Francesco?

15 A. Waldemar did not introduce me to the clinic. Waldemar introduced me to Francesco Pavoni, and they had already asked Waldemar if he had any interest in going to Italy, and he said not unless we go as a team. And actually, he wanted Charlie and myself to go, and I
20 don't even think he ever approached Charlie on that.

Q. He certainly approached you?

A. Yes, he did.

25 Q. And you had enough interest that you would follow Francesco around Europe. You went to Budapest with him. He invested a great deal of money, I

think you mentioned \$9,000.

A. Not for a clinic. I went there because they said he was injured.

5 Q. But you spent a lot of your own money to follow Francesco Pavoni around Europe.

A. I don't like the word following. I'm not a groupie, you know, Mr. Futerman. I wasn't following anybody. Francesco's father phoned me and told me he was in Budapest preparing for the European indoor
10 championships and he was injured, would I go to Italy--to Hungary and see him. I said sure.

Q. And you went there at your own expense?

A. With the understanding that they would refund me.

15 Q. And how soon were they to refund you?

A. When we got to Italy, which was a week after.

Q. And what month was that?

A. Either the end of February or early
20 March. I'm not sure.

Q. And when you didn't get refunded, what did you do?

A. I went back home.

Q. That was the end of it?

25 A. No, they sent me some money, but

nowhere near as much as they owed me.

Q. Well, how much did they send you?

A. About--I have \$2200 or something. I
got the excuse that they couldn't get it through the
5 foreign exchange and all this nonsense.

Q. All right. Tell me about these other
athletes. Did you treat--I think you mentioned a number
of countries where athletes came to you, both in track and
field and in other areas. You mentioned ten or eleven
10 countries that I can recall. Did they come to you for
their injuries or did they come to you for anabolic
steroids or just for advice?

A. The countries you mentioned, and Mr.
Armstrong had the list of, I said these are the countries
15 and athletes with whom I discussed anabolic steroids and
performance-enhancing drugs.

Q. Did you discuss anabolic steroids with
these athletes?

A. With some of them, yes.

Q. Did you know them before they came to
20 see you?

A. Most of them.

Q. Did you discuss--

A. They didn't come to see me. You seem
25 to be missing the point that they didn't come to Canada to

my office.

Q. I didn't say that.

A. Why are you insinuating that, sir?

Q. Well, forgive me. Then they came to
5 see you at the track, they came to see you at different
locations, but you saw them and you gave them advice?

THE COMMISSIONER: They didn't just come to
see him. They consulted somehow. Was it by phone or by
letter?

10 THE WITNESS: You would be sitting at the
dining table after a race or before a meet or something,
and they would all be discussing it and you would just be
involved in it, and they wanted--they would come and ask
you well this is what I am doing and that's what I am
15 doing, what do you think.

THE COMMISSIONER: I see.

MR. FUTERMAN:

Q. Well, Doctor, were you talking about
20 Estragol?

A. To them?

Q. Yes.

A. No.

Q. Well, what were you telling them?

25 A. What they were on. You asked me about

their programs, what they were taking.

Q. And you gave no advice about any program that you were giving to your athletes; is that correct?

5 A. No, that's right, except dietary program, nutritional programs.

Q. But nothing to do with the kind of program with Estragols that you were supervising and administering to your athletes?

10 A. No, that was discussed with two people outside of the group.

Q. Well, Doctor, weren't you concerned--did they know that your athletes were getting anabolic steroids from you?

15 A. I didn't tell them, but they obviously knew.

Q. Well, weren't you concerned about admitting these facts to strangers? Why would you want to admit to athletes from around the world that you were knowledgeable in anabolic steroids?

20 A. Why wouldn't I? What do you want me to do, pretend to be dumb?

Q. Nobody could ever accuse you of that, Doctor, but why would you, when you're trying to keep it a secret--

25

A. I didn't say I kept it a secret, I said--

Q. Let me finish the question, Doctor, and then you can answer and I won't interrupt you. When you
5 know that the last thing you want to do is to tell people out there that you are administering anabolic steroids to athletes, why would you advertise to so many athletes around the world that you were so knowledgeable about anabolic steroids?

10 A. A, I didn't advertise; B, I didn't approach them; and C, every athlete, coach, trainer, the whole group out there knows what's going on and with whom. So it's not me volunteering information. They don't like people who pretend to be blind and ignorant to the facts.

15 Q. Doctor, would you have ever had that same free discussion with athletes and officials back in Canada?

A. The athletes in Canada all knew.

20 Q. But would you have had that kind of free, open discussion about the use of anabolic steroids with anybody who wants to talk to you about it in Canada?

A. No.

Q. Of course not. Why would you do it in other parts of the world?

25 A. Because they were more realistic.

Q. Were you not concerned that word might get back to Canada to the officials here?

A. It probably did.

Q. Well, were you concerned that maybe one
5 or two of them who may not be so discrete might tell the newspapers or might tell their associations or might tell the IOC or the IAAF or some Canadian official? Were you not concerned about that?

A. No.

10 Q. You weren't? You certainly didn't tape their conversations, did you?

A. No, because they wouldn't do it.

Q. You were satisfied that you could trust these people; is that correct?

15 A. They were all knowledgeable about anabolic steroids, performance-enhancing drugs, and they would sit down and discuss it. One out of a table or one out of a group would come and say, this is what program I'm on, what do you think of it? This is what I have been
20 on, what do you think? This is what I plan on going on. So my knowledge doesn't affect anyway. I never told them the Canadians were on anabolics. I never told them that, they never asked me that. They knew.

Q. They knew.

25 A. Sure they knew. You don't go from

10.17 to 9.83 on Petro Canada unleaded gas.

Q. But why did they know, why did they know it was you that was responsible for that? Certainly they didn't know that, Doctor.

5 A. Because I was the only idiot stupid enough to travel with the teams.

10

15

20

25

Q. I thought we agreed that you are not an idiot?

A. Well in retrospect, I was.

5 Q. All right. I won't explore that any further. Doctor, let's talk about the break-in in your office for a moment.

THE COMMISSIONER: Mr. Porter has covered a lot of this ground, Mr. Futerman.

10 MR. FUTERMAN: Or perhaps we can move along, that is fine.

THE COMMISSIONER: I don't want you to cover matters that he has covered.

MR. FUTERMAN: I will leave that alone.

THE COMMISSIONER: All right.

15

MR. FUTERMAN:

Q. Doctor, part of the Hippocratic Oath says "I will not divulge but consider such things to be holy secrets."

20 Do you remember that part. That is the last line of the Hippocratic Oath.

It refers to what you see or hear in the course of your practice, is that correct, Doctor?

A. Yes.

25 Q. You know that. And what we are

talking about is the confidentiality of your patients and obviously when you come to an inquiry and under subpoena you have to tell this inquiry, or in a courtroom you would have to tell under subpoena all you know about your
5 patient. But otherwise you have a duty not to disclose any information in regards to the treatment of your patients. Is that fair to say, Doctor?

A. Yes.

Q. Yes. And did you have Angella
10 Issajenko as a patient of yours in 1988 when you did the tape on her?

A. Yes; in one respect, yes.

Q. And Pavoni was a patient of yours at that time?

15 A. Yes.

Q. Ben Johnson certainly was?

A. Yes.

Q. I am not sure if Charlie Francis was
but I assume he was?

20 A. Charlie was a patient but not for steroids.

Q. I understand. Did you have the permission of any one or all of these 4 people to divulge or share the information on these tapes with your brother
25 Chris Astaphan?

A. No.

Q. Your brother is a lawyer?

A. Yes.

Q. Did he tell you what you were doing was
5 not proper.

MR. LEVINE: With respect I am not sure --

THE COMMISSIONER: Not just legal advice
coming from his brother.

MR. FUTERMAN: Well, we are going to go a
10 little further this, we are leading to something else Mr.
Commissioner.

THE COMMISSIONER: Well, be careful. We
want to insist on confidential and patient relations but
we also insist on confidentiality of the lawyers practice.

MR. FUTERMAN: I know that. I know that.
15 I am going to get to that next.

Q. Was your brother Chris also a lawyer
representing Ben Johnson?

A. I don't know, you would have to ask him
20 or Ben, I don't know.

Q. You are not aware that Chris Astaphan
was representing Ben Johnson during that period of time
sometime starting perhaps in October of 87?

A. No, he doesn't tell me any of his
25 clients information and I don't ask him.

Q. How would Ben Johnson get to Chris Astaphan if not through you?

A. He knew him.

Q. He met him through you?

5 A. Yes, long ago.

Q. And you weren't aware that he was representing Ben Johnson in legal matters?

10 A. Not officially, no. I heard Ben speaking to him about problems he was having but that was none of my business.

Q. So, your brother never indicated to you his concern about taping a conversation in respect to somebody who might be one of his clients, he never told you that?

15 A. You better ask my brother that, Mr. Futerman. I am not getting involved in that.

20 Q. Perhaps we will, perhaps we will. Dr. Astaphan when you called Ben by telephone, and I am referring you to page 8,934 and I don't know if you want to have the transcript in front of you so that I can just read the questions and answers that you apparently gave, or apparently Ben gave.

THE COMMISSIONER: We might as well have the transcript.

25 MR. FUTERMAN: Would this be an appropriate

time to break for 5 minutes.

THE COMMISSIONER: Yes, it would. We will just take 5 minutes.

THE REGISTRAR: The Commission will break
5 for a 5 minutes.

--- Short Recess.

--- Upon Resuming.

10

THE COMMISSIONER: Yes Mr. Futerman.

MR. FUTERMAN: Mr. Commissioner I would like to refer both the witness, I don't know if he has a copy of the transcript or not.

15

THE COMMISSIONER: Do you want to give this to the witness please. Do you have a copy, Mr. Armstrong.

MR. ARMSTRONG: No, I'm sorry I intended to get it when I went out, I apologize.

20

THE COMMISSIONER: All right, Mr. Futerman.

MR. FUTERMAN:

Q. Referring to page 8934.

25

THE COMMISSIONER: Excuse me, Mr. Nunn will you get me a copy from your room, please.

It is very short, I probably don't need.
You have that, Mr. Nunn will get me a copy, I'm sorry.

MR. FUTERMAN:

Q. Top of page 8,934. It says in the
5 margin, forgive me if I call you Dr. Astaphan rather than
just Astaphan but it says:

"DR. ASTAPHAN: You haven't used any of the
white stuff, the steroids, since December,
have you?

10 JOHNSON: Part of it, yes.

DR. ASTAPHAN: Since December?

JOHNSON: Yeah.

DR. ASTAPHAN: When did you do it? When
was the last time, not the inosine, the other
15 steroid, the white one?

JOHNSON: Long Time.

DR. ASTAPHAN: Well, what - oh, you haven't
used it recently?

JOHNSON: Yeah.

20 DR. ASTAPHAN: Because I put on the bottle
that you must stop on the 18th of December,
something like that.

JOHNSON: Mmm.

DR. ASTAPHAN: And you stopped then?

25 JOHNSON: Yeah.

DR. ASTAPHAN: Oh, because you know the bottle looked pretty --"

It says the bottle looked pretty tight but it obviously can't be the bottle.

5 MR. LEVINE: I think it's the muscle.

MR. FUTERMAN: I think we can accept that sir. That is of no significance or the purpose. It is obviously the muscle, sir.

10 "JOHNSON: Mhmm.

DR. ASTAPHAN: Charlie hadn't given you any steroid shots or anything by mistake?

JOHNSON: No."

15 Now that's the part that talks about the area that I am interested in, sir. Do you see those questions and those answers?

Doctor, the question that I want to put to you, if Ben was so knowledgeable in the use of anabolic steroids, why did you on 2 occasions have to refer to the steroids as the 'white stuff'. Why didn't you simply say Estragol or, in view of your evidence, Furazabol. Why did 20 you have to say 'the white stuff'?

A. I said previously it was referred to as Estragol or the white stuff.

25 Q. But you said steroid and then you said

the white stuff. Why would you use both names?

A. Because he understood it by the white stuff. Two or 3 of them called it white stuff, the others called it Estragol.

5 Q. So that Ben understood?

A. That's how he referred to it.

Q. He referred to it as the white stuff?

A. Yes.

Q. All right?

10 A. And I think that --

Q. And Doctor -- yes, I am sorry do you want to add something to that?

A. Yes, this copy hasn't been corrected that 1, 2, 3, 4, 5. The 5th one down should be corrected too. Not the inosine, the other one the steroid, the
15 white one.

Q. We are going to come to that next?

A. All right.

Q. Doctor, why did you say not the
20 inosine, the other steroid, the white one. Did Ben think that inosine was also a steroid, is that what you told him?

THE COMMISSIONER: He said that should be corrected?

25 THE WITNESS: I think you should look at the

corrected version of that tape.

MR. FUTERMAN: I don't think we can go by the transcript, Sir.

THE WITNESS: The other one, the steroid,
5 the white one.

THE COMMISSIONER: The other one, the steroid, the white one. That's what I mentioned the other day it was important that we follow the tape really. That is always the problem with the transcript.

10 MR. FUTERMAN: It was very difficult to remember what the tape was saying, I can only follow the transcript right now.

THE COMMISSIONER: Well, we will check it again. You say it was the other one, the steroid, the
15 white one, is that what you said?

THE WITNESS: Yes, sir. But I think we corrected this 2 days ago.

MR. FUTERMAN:

20 Q. Forgive me, this was corrected in the transcript? I am not aware of that. Are you saying you didn't use the words, 'not the inosine'?

A. No, I never said that?

Q. What are you saying should be correct?

A. I said not the inosine, the other one
25 the steroid, the white stuff.

Q. So you never used the word 'the other steroid'?

A. No.

5 Q. All right. I haven't got the tape in front of us and I guess if necessary we could review that again?

THE COMMISSIONER: We can check it again Mr. Futerman.

10 MR. FUTERMAN: I will be pleased to accept the explanation by Commission Counsel if he wants to let me know later.

THE COMMISSIONER: Fine, thank you?

15 THE COMMISSIONER: You should say, we will check it of course ourselves - but you say not the inosine, the other one, the white one. Is that what you said it should read?

THE WITNESS: I think it should be not the inosine, the other one, the steroid, the white one.

20 THE COMMISSIONER: All right, we will check that, thank you?

MR. FUTERMAN: If you would let me know sir, I would be grateful.

25 THE COMMISSIONER: Yes, we will have Mr. Nunn check it. It should have been done before if there is any problem.

MR. FUTERMAN:

Q. Leading up to the tapes, Doctor, had Waldemar told you that either you or Charlie would take the rap if the athletes were caught, is that correct?

5 A. He didn't tell me, that's not exactly what he told me. He says that the mumbling or rumour going around at the track is that they would all the deny ever having taken steroids if they got caught.

Q. Well, you already --

10 A. Which obviously means that Charlie and myself would be up the creek.

Q. You already said that the way the athletes always handled was deny, deny, deny. That shouldn't come as any surprise to you.

15 A. Well, the athletes usually, the group would decide on this course, well, if one got caught they would say, yes, I did and then nobody would speak and then they were getting a little bit, everybody going.

Q. A little edgy?

20 A. Well, I don't know about edgy but everybody was looking after their rumps.

Q. That was your impression?

A. Yes.

25 Q. Well, why did you tape Angie Issajenko, what was it about her that concerned you?

A. I taped all of them that I knew I had given.

Q. Well, there was far more athletes than those three that you gave steroids to?

5 A. Yes, but none of them are running who would have come in spots high enough to be tested.

Q. No, but they could have been caught in a random test and besides you weren't concerned about them getting caught anyway and beside the way you described it,
10 there was no way that if they followed your program that they should every get caught So, there must have been another reason?

A. No, that is the reason.

Q. And it was only these 3 people that
15 concerned you. You weren't concerned about the other athletes because they never were going to be good enough to be tested?

A. No, I said some of them. I said these were the 3 of the ones that I had personally treated.

20 Q. But you treated a lot of other athletes who easily could have been tested and could have gotten caught as easily as these 3 athletes. Surely. Why weren't you concerned about them?

A. Why would they have gotten caught.
25 They weren't going to make it in the top 3.

Q. How did you know that? And besides you don't have to be in top three to be tested. We understand there is a number of meets where they test the top three and then they test a few others at random. Is that not correct, Doctor?

A. Some meets.

Q. Well, sure, but these athletes could have gotten caught in one of those random tests?

A. These are the high profile athletes that they will go for.

Q. I suggest to you Doctor, that your concern about these athletes should have been your concern about all the athletes who you treated. I can't understand, with great respect, why you only focused on these 3 people?

A. Because that is what I wanted to do.

Q. That's what you wanted to do. Well that sounds more reasonable?

A. I didn't have any concern about the others because I didn't think they would make it too far.

Q. And you didn't think they would squeal on you?

A. Well, I never said they would squeal. I never said anybody would squeal, I said they would deny it.

Q. All right. So you were concerned about Pavoni for the same reason?

A. Very much so.

Q. You thought that he might finish in the top 3?

A. Well he was going back to Europe and he would be in the top 3 in Europe.

Q. Yes. So is it your evidence that the only ones that concerned with about having the information that they did about your treatment of them were those athletes who you concerned to be good enough to finish in the top 3?

A. I'm sorry, I didn't understand that.

Q. That may have been a convoluted way of describing it. Were you only concerned about the top 3 finishers, is that what your concern was?

A. Concerned in what way?

Q. People who were capable of finishing in the top 3 in any given race, and therefore you are sure would have been tested?

A. Yes, but concerned in what way?

Q. Concerned about them denying and therefore implicating you if they tested positive?

A. No, but these were the ones I knew would make it.

THE COMMISSIONER: When did you first become concerned. This is done in January or February was it?

THE WITNESS: No, in December. As I said before, Ben had mentioned to me in Rome sometime in 87
5 shortly after the world championship when they had a whole, they used to buy all sorts of stuff off the shelf in Europe.

THE COMMISSIONER: I understand, I think you told us that. But that was in what month in Rome?

10 THE WITNESS: Early August, early September, 87. I said one of these days one of you are going to get caught on a positive test because of the crap you are buying and you can't lead the labels and he jokingly said, well Charlie or you will take the rap for me. I thought
15 it was a joke.

When I got back to Toronto in December, Pavoni had told me that, you know, I have been listening around the place and I suspect if any of these athletes get caught they are going to deny having taken steroids
20 and you and Charlie -- as a matter of fact he even said you, Charlie and Waldemar might get the heat.

I figured okay, Pavoni said so, and when I came back in January, the week of the track meet, or the Toronto Sun meet, Waldemar was a little bit upset and
25 aggitated because of the way he was apparently being

5 treated. And you know one evening after they finished at
the track, I stayed around with him, we dropped some of
his equipment off in his apartment and then he brought me
downtown and he said, you know, I am getting a little bit
worried that the rumours I hear in here when we are
massaging them -- he had a little room where he massaged
all the athletes, sometimes one at a time, sometimes two,
three, four of them and he expressed the same opinion that
Pavoni had expressed the month before, 6 weeks before,
10 that they would deny, deny, deny. And he was worried, as
I was after he told me, that it just wouldn't be one
denying or one admitting but everyone would deny it, and
the 2 people closest to them who would get slung up would
be Charlie and myself and I appreciated what he was trying
15 to tell me and I decided it was time to do something.

Q. All right. You have explained why you
taped Ben Johnson, Angie Issajenko and Franchesco Pavoni?

A. Yes.

Q. but why Charlie Francis. He's the one
20 that introduced you to this group. Why would you tape a
conversation with him. He had the same problems that you
did?

A. But, I was the doctor.

Q. Well, I am not sure I follow that?

25 A. I am the one with a licence at stake.

Q. Why would your licence be at stake?

A. If anybody ever denied it, denied it
and the same thing came up and they said oh you are the
doctor and nobody ever did this, nobody ever did that, for
5 the same reason why it is under inquiry now.

Q. I can't hear you.

A. For the same reason it is being
investigated now.

Q. Well, the Inquiry is not investigating
10 Dr. Astaphan?

A. No, not the Inquiry.

Q. I see. So you were concerned that
everybody, including Charlie Francis would deny that they
knew anything about the use of anabolic steroids and
15 therefore you would be the guilty one if someone tested
positive. That was your concern. So you wanted someone
to share.

THE COMMISSIONER: As a matter of fact you
are giving these drugs without their knowledge?

20 THE WITNESS: Yes.

THE COMMISSIONER: Is that what you would be
worried about?

THE WITNESS: Yes.

THE COMMISSIONER: I see.

25

MR. FUTERMAN:

Q. All right. I suggest to you, Doctor, that it was far more likely that one of the other athletes would blame you if they tested positive than the 4 that
5 you have taped. I would suggest to you, Doctor, that there were other reasons why you taped these 4 and none of them had to do with fearing blame from these 4.

I suggest to Doctor, that you taped these 4 so some day you could use these conversations for other
10 purposes. Is that correct, Doctor?

A. No, I have no idea what other purposes you are referring to.

Q. When you taped Charlie Francis, Charlie said Ben was confused and doesn't seem to remember what he
15 got. You said sometimes you wonder what he remembers and you added what he wants to remember. You were obviously suggesting that Ben was intentionally pretending not to know what drugs he was getting. Was that your reason for saying that?

20 A. No, I never said that. I never inferred that.

Q. What were you inferring?

A. What I inferred was that Ben would answer you when he wanted to and what he wanted to.

25 Q. I see. So that was your way of

suggesting that Ben knew what people were talking about but he only would answer when it suited his purpose?

A. Exactly.

5 Q. I see. You also gave evidence, and I think that this came out in the tape, that Charlie Francis was interested in working a deal with Pavoni. Is that correct?

A. It was to put on a clinic, one clinic in Rome. I think in Rome.

10 Q. Was he talking about a financial arrangement with Pavoni?

A. They were going to fly us over there and put us up in a hotel. That was my understanding.

Q. All right?

15 A. That was one of a tremendous amount of approaches made.

Q. So this was going to be one time only?

A. To my knowledge, yes.

20 Q. Doctor, there was an article in the Runners World, April, 1989 entitled "The Saga behind the shame", written by John Brant. Did you happen by chance to read this article?

25 A. Yes, I did and Mr. Dubin, this an article that might be in legal contention shortly, so I would rather not bring this up.

THE COMMISSIONER: No, unless it is a quote. I am not caring about somebody else's opinion or what he is writing about, Mr. Futerman, that is not fair. If it is a quote to the Doctor.

5 MR. FUTERMAN: What I was going to do, there with an individual who makes certain comments and I want this witness --

THE COMMISSIONER: But I am not interested with all respect to what some writer, what his opinion is.

10 MR. FUTERMAN: It is not a writer, it is someone who is present in St. Kitts at the time that the Doctor was there with Ben. Someone who observed what happened there and states what he saw and what he heard.

15 THE COMMISSIONER: Well, never mind the article. As a basis of the question ask who the man is and whether he has ever had this discussion with him.

THE WITNESS: The man is Jack Scott and the article is a total lie.

20 MR. FUTERMAN:

Q. I would like to ask this witness whether or not he made certain statements that is purported to have been made by this witness to Mr. Scott?

25 THE COMMISSIONER: All right. Well, ask him, did you say this to Jack Scott. I think that has

already been done, I think it was on the Journal.

MR. FUTERMAN: The Journal was different.
This is entirely different.

THE COMMISSIONER: Just ask him if there is
5 a quote there.

MR. FUTERMAN: There are a number of quotes.

THE COMMISSIONER: But only a quote with
the person to whom it is spoken and by the Doctor, not the
opinion of a writer.

10 MR. FUTERMAN: No, no, I am not getting into
the opinion of the writer, Mr. Commissioner. Mr. Scott
says that you bragged for hours about how you administered
anabolic steroids and had transferred a talented but
undistinguished sprinter into the fastest man ever. Did
15 you tell Mr. Scott that?

A. No.

Q. He says that you boasted, how everyone
in elite track and field was employing drugs, but that you
were the master. Did you make that statement?

20 A. No.

Q. Mr. Scott states that you said that you
were asked by him if you regularly checked Johnson's blood
levels, liver functioning, both of which might be affected
by prolonged steroid use, and you apparently replied, no,
25 my only concern is to make sure that Ben balances these

things properly. Did you make that statement?

A. No.

THE COMMISSIONER: Well in fairness we know he has had lab tests.

5 MR. FUTERMAN: He has had some tests.

THE COMMISSIONER: Well that's inconsistent with what Mr. Scott says there.

MR. FUTERMAN: That's why we are asking this witness.

10 THE COMMISSIONER: I am not sure that is why you were asking, I am just making a coment there, that is inconsistent with what Mr. Scott said there. Is he a Doctor Scott.

15 MR. FUTERMAN: I am giving the evidence that was in this report

THE COMMISSIONER: Well I am just commenting on it.

MR. FUTERMAN: Sure that is fair. Thank you, Mr. Commissioner.

20 Q. You then are reported to have said that compared to some of these guys, Ben has a childlike and complete trust in me, whatever I tell him he will do. Did you tell that to Mr. Scott?

A. No.

25 Q. You then suggest that you asked him to

introduce you to Carl Lewis, is that right?

A. No, that's not right.

Q. All right. Doctor, when Charlie Francis and Angie Issajenko and others say that you never
5 mentioned Furazabol to them they are either mistaken or lying. You are telling the truth, is that correct?

A. I mentioned it to tell, I discussed it with them.

Q. And when Waldemar suggests in his
10 evidence that you had aspirations to take over either the management or the coaching of Ben Johnson, Ben Johnson with Waldemar, his evidence is incorrect, is that correct?

A. I never had any aspirations to take over either the coaching or management or nothing.

Q. And when Gary Lubin suggests to you
15 that - suggests to us - that in the conversation you had with him in that restaurant, that you gave Ben something a little extra before the race in Rome, in August or September of 87, that's not true, he is either mistaken or
20 lying, is that correct?

A. I never told Gary that.

Q. All right.

THE COMMISSIONER: Mr. Armstrong has already covered that.

MR. FUTERMAN:

Q. And when Tim Bethune says there was Winstrol V in your Office, that he saw you take out of the garbage can, at least the container, he is either mistaken or lying, you are telling the truth, is that correct?

5 A. Yes, he didn't see me take any Winstrol V bottle out of any garbage.

Q. And that is it is your evidence that all the bottles of injectable Winstrol V, the very same drug that Ben Johnson tested positive for in Seoul,
10 stanozolol - stanozolol is contained in Winstrol V, you say that all of that Winstrol V was for Mr. Hyatt in St. Kitts.

A. That's right.

Q. Even though there is no record of you
15 delivering these drugs to him at any time. Is that correct. Or is there a record?

A. A record?

Q. Yes, did you keep a record when you
delivered all these --

20 A. No, he paid me.

Q. He paid you in cash?

A. Well, did you give him a receipt?

A. I took the receipt from Winthrop down.

Q. No, no, no. He paid you in cash. Did
25 that cash go through your books?

A. Down there?

Q. No, no, Wherever. I mean you paid
for it here?

A. No.

5 THE COMMISSIONER: Do you have a record of
it, Doctor. Do you have a record of the transaction?

THE WITNESS: No, just copies of the bills
and receipts.

10 THE COMMISSIONER: That you got from
Winthrop?

THE WITNESS: Yes, I just took the originals
down to him and he paid me whatever it was worth.

THE COMMISSIONER: I see.

15 MR. FUTERMAN:

Q. So that you have no record of this
receipt?

A. No.

Q. Of moneys from Mr. Hyatt?

20 A. No.

Q. So you had the expense but not the
income, is that correct. You show the expense because
you obviously paid Stirling Drugs and the other drug
companies but you never had any receipt to show that you
25 received the cash?

A. No, he gave me the money in St. Kitts.

Q. I see. And when you say there was a break-in in your office the night before an investigation was to take place?

5 A. No, no, no, I didn't say that.

Q. There was no break-in in your office?

A. I didn't say anything about the night before.

10 Q. Oh. Oh, when was the investigation to take place?

A. About a week or something after. I never said that, somebody brought it up here and I wasn't allowed to clarify that. So, lets get it clear right now.

15 MR. SOOKRAM: That point has already been covered by more than one person.

20 THE COMMISSIONER: There was a suggestion it was a related, the date of the break-in was close to when the investigation was to take place. You had a letter I think in advance that they were coming in some day I think?

THE WITNESS: Yes, I came back from holidays and found a letter there and when I started going into the break-in I was cut off.

25

MR. FUTERMAN:

Q. Well, we are not going to do that now.
You are saying that the break-in took place about a week
after you were advised that the college was going to
investigate you?

THE COMMISSIONER: No, no?

THE WITNESS: I never said that.

THE COMMISSIONER: In relation to the time
they came in. You knew when they were coming in I think?

THE WITNESS: Yes, I think they were
supposed to come a week, a week and a half or something
like that, I am not sure.

MR. FUTERMAN:

Q. But you are aware that they were coming
in, is that correct.

A. Yes, I was aware.

Q. Pardon?

A. Yes.

Q. All right. And as a result of this
break in or the investigation by the insurance company or
the police department, you did not see any of the
so-called roid records after that, is that correct?

A. That's right.

THE COMMISSIONER: Well, Mr. Porter has gone

through that in detail.

MR. FUTERMAN: Q. I am leaving it, sir,
thank you.

5 Q. And once again when you tell us about
Ben's intelligence and inquisitive nature you once again
are telling us the truth, is that correct?

A. Yes.

10 Q. And when you talked to all of these
other athletes about steroids, from all of these other
countries, you only had their best interests at heart and
you certainly did not have any interest in receiving 10
percent of their earnings as was suggested to you earlier?

15 A. I never got a cent from any one of
them.

Q. Well, had you discussed 10 percent?

A. No, never.

Q. Never?

20 A. No. What earnings do they make over in
the Eastern Bloc?

Q. And when you taped your conversation
with Charlie Francis you were only doing this to protect
your backside and you did not intend to use this tape for
any other purpose?

25 A. No.

Q. Is it not true, Doctor, that by telling us, by not advising your athletes -- let me rephrase that.

Is it not true that if you hadn't told your athletes about the possible side effects of anabolic steroids you would not be complying with the notice of the College of Physicians and Surgeons of Ontario in June of 1983, which requires you to warn your patients about the possible side effects of anabolic steroids. Is that correct?

A. Yes, that's right.

Q. All right. And you must also tell all of your patients what drugs you are administering, is that correct?

A. Yes.

Q. Doctor, I suggest to you that you were not looking after the health and welfare of your athletes and specifically Ben Johnson. You were playing Russian roulette with Ben's liver, his achilles tendon, and perhaps he indeed is very fortunate that he tested positive in Seoul to assure that at least people like you would be exposed for what you stand for.

THE COMMISSIONER: Is that a statement of yours, Mr. Futerman, or a question?

MR. FUTERMAN: That's a statement.

THE COMMISSIONER: It is quite proper to

make submissions and ask questions but you will have a chance to make statements later.

MR. FUTERMAN: I apologize, Mr. Commissioner.

5 THE COMMISSIONER: It is not the time for it.

MR. FUTERMAN: I apologise, Mr. Commissioner.

10 THE WITNESS: Mr. Commissioner, you know, apologizing for a statement like that doesn't erase it. I think that's a pretty nasty statement.

THE COMMISSIONER: All right. Well, thank you.

15 THE WITNESS: You know, when I make statements to the press or anybody, my attorney gets garbage thrown all over him. This isn't just going to the press, this is a going to 28 million people.

MR. FUTERMAN: That never stopped you from making those kinds of statements, did it?

20 THE COMMISSIONER: Please, Mr. Futerman. That is enough now. I have indicated that I think it was quite inappropriate.

25 You had a full examination, and it was a speech that was being made not a question. It is not appropriate to make speeches in an inquiry like this.

MR. FUTERMAN: I apologize, sir,

THE COMMISSIONER: All right, thank you.

MR. FUTERMAN: Those are the questions, sir.

THE COMMISSIONER: Any other person wishing

5 to question?

MR. LEVINE: Sir, I just wonder if you wish
to deal with the matter of the medical reports. We might
have a break for 10 minutes.

THE COMMISSIONER: All right, we will do
10 that. Do you want to pursue the medical reports?
We will take 5 minutes then. I would like to finish this
afternoon if I could.

MR. LEVINE: If we could have a short break
sir.

15 --- Short recess.

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25

--- Commission resumed.

THE COMMISSIONER: Mr. Sookram, have you dealt with the medical reports?

MR. SOOKRAM: Yes, sir. Having looked
5 through them, I appreciate that the only relevant things here are the things that relate to the liver, and if we stick to that, we can go on.

THE COMMISSIONER: All right, fine. Do you want to read that into the record, please?

10 MR. FUTERMAN: That's fine, Mr. Commissioner. If you would like, I'll either file that portion of the reports with you, which we have made--

THE COMMISSIONER: Without making exhibits, what we have done in the past is just read the portion
15 into the record.

MR. FUTERMAN: That's fine. I would be delighted to. It might be simpler if I read what I think is appropriate. If my friends have any problem with that, --

20 THE COMMISSIONER: Will you follow it, Mr. Levine.

MR. SOOKRAM: We've got this one ready.

MR. ARMSTRONG: Why don't we do it tomorrow morning?

25 THE COMMISSIONER: All right, we will come

back tomorrow morning.

MR. FUTERMAN: I don't intend to ask this witness any further questions about this. I just want to read it into the record. That's all.

5 THE COMMISSIONER: I think I should say this, that at the beginning of this inquiry, I said I would insist that every witness, no matter who he or she may be, is to be treated with courtesy and dignity and that doesn't exclude questioning, and I don't want to see
10 that breached again. Adjourned until tomorrow morning at 10:00.

MR. FUTERMAN: Thank you, sir.

--- Commission adjourned.

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